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Acts of the Legislative
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Florida

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ACTS

OF THE

LEGISLATIVE COUNCIL

OF THE

TERRITORY OF FLORIDA,

PASSED AT THEIR 5TH SESSION,

1826-7.

BY AUTHORITY.

TALLAHASSEE,

PRINTED BY A. S. TERUSTON,

1827.

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ACTS

OF THE

LEGISLATIVE COUNCIL.

Regulating Civil Proceedings.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the plaintiff or plaintiffs, in all actions at common law, in any of the courts of record of this Territory, to file his, her or their declaration, before issuing the original writ ; but nevertheless, original writs may be sued out previous to filing the declaration, subject to the regulations hereinafter specified.

The time for filing declaration

Sec. 2nd. *Be it further enacted* That original and mesne process against a defendant or defendants at common law, shall be returnable to the first day of the term next after they issue.

Original & mesne process returnable to the first day of the term.

The manner in which the return of the execution shall be made.

Fine for failure to make return &c.

The manner of taking bail.

The manner of giving of bail not an appearance to the suit.

Bail may be objected to:

Sec. 3rd. *Be it further enacted*, That it shall be the duty of every sheriff or other officer, who executes original or mesne process on a defendant, to insert in his return, the time of executing such writ; but should he fail to return the time of executing such writ, it shall not impair the return if executed; but such sheriff or other officer shall be fined by the court, to whom such process may be returnable, for such failure, a sum not exceeding ten dollars, on motion of the person who may be party to the suit, and shall also be liable to the action of the person injured-

Sec. 4th. *Be it further enacted*, That where process requiring bail shall be executed, it shall not be necessary for the sheriff or other officer executing such writ, to take an appearance bail bond, but he shall take from the bail an endorsement on the writ shewing the name of the bail, and for whom the bail was entered; which endorsement shall be signed by the bail, and be in substance as follows, I (or we) A B, do hereby acknowledge myself (or ourselves) special bail for the within named C D in the suit named in the within writ, witness my hand (or our hands) this

day

A B,

which shall have the force of a recognizance of special bail, and as such, shall be obligatory on the bail, their heirs, executors and administrators, jointly and severally. The giving such bail shall not be considered an appearance in the suit.

Sec. 5th. *Be it further enacted*, That if the plaintiff or plaintiffs, shall not be satisfied with the sufficiency of the bail so taken, he may at the term to which the writ is returnable, or at the next term thereafter, if in the mean time final judgment be not given in the cause, object to the sufficiency of the bail, provided reasonable notice of the objection be given to the officer, to whom such writ was directed: And the court

shall proceed to hear and determine the objections to the sufficiency of the bail.

Sec. 6th. *Be it further enacted*, That if the bail be adjudged insufficient, and other good bail approved of by the court be not put in, the bail so objected to shall not thereby be discharged. And if the plaintiff shall proceed to judgment against the bail so adjudged insufficient, and the demand be not satisfied by the return of the first *fiere facias* against the bail, the sheriff or other officer shall be liable to the plaintiff for the amount of his demand and all costs of suit; which may be recovered by motion against the sheriff or other officer, or against his securities.

If the bail be adjudged insufficient etc.

Sec. 7th. *Be it further enacted*, That in every case, where judgment shall be rendered against any defendant or defendants and bail; or against the sheriff, his executors or administrators or estate, the court upon motion of such bail, or of such sheriff or other officer, his executors or administrators, or any other in behalf of his estate, may order an attachment against the estate of the defendant, returnable to the next succeeding court; and upon the execution and return of such attachment, the court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a *fiere facias*; and out of the money, such judgment and costs shall be satisfied, and the surplus returned to the defendant or defendants when required.

Attach't. may issue against defendants estate &c.

Sec. 8th. *Be it further enacted*, That every special bail may surrender his principal, before the court where the suit shall be depending, at any time either before or after judgment shall be given, provided, such surrender be made before the appearance day of the first *scire facias* against the bail returned executed, or of the second returned *nihil*; but in either case,

Bail may surrender his principal

the special bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against him accordingly. Upon such surrender the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or other officer attending said court, if the plaintiff or his attorney desire the same, or such special bail may discharge himself or herself, by surrendering the principal or principals to the sheriff of the county where the original writ was served : and such sheriff shall receive such defendant or defendants, and commit him her or them to the jail of said county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall be by the bail transmitted to the clerk of the court, where the suit was or is depending; the bail shall give immediate notice of such surrender to the creditor his attorney or agent ; and within twenty days, such creditor his attorney or agent, shall not charge the debtor or debtors in execution, he she or they shall be forthwith discharged out of custody. But the plaintiff or plaintiffs may, nevertheless, afterwards sue out any legal execution against such debtor or debtors, without suing out a *scire facias*.

When plaintiff
may recover
costs.

Sec. 9th. *Be it further enacted*, That in all actions of assault and battery, and slander, commenced in any court in this Territory, if the jury find under the sum of five dollars, the plaintiff shall not recover any costs.

In other cases,
no costs allow.
ed.

Sec. 10th. *Be it further enacted*, That in all actions of trespass, and all other personal actions where the court shall not be satisfied, and enter upon the record, that the freehold, title or interest of land mentioned in the plaintiffs declaration was or might have been in question, or that the trespass was wilful or malicious, if the jury find under five dollars, the plaintiff shall not recover more costs than damages, and where several persons shall be made defendants in actions of tres-

pass, assault, false imprisonment, or ejection, and upon the trial thereof any one or more of them shall be acquitted by verdict, every defendant so acquitted, shall have and recover his costs of suit in like manner as if verdict had been given against the plaintiffs, and acquitted all the defendants; unless the court before whom such cause shall be tried, shall be satisfied that there was reasonable cause for the making such person or persons defendants to such action, and shall order it otherwise; and in all cases where judgment shall be given for the defendant, he shall recover his costs and have execution for the same.

Sec. 11th. *Be it further enacted*, That in all actions of *quare clausum frigit* hereafter to be brought, where the defendant or defendants shall disclaim, in his or her plea, to make any title or claim to the land in which the trespass is supposed to be done by the declaration, and the trespass be by negligence, or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends, for such trespass, before the action brought, whereupon or upon some of them the plaintiff or plaintiffs shall be compelled to join issue, and if the said issue be found for the defendant or defendants, the plaintiff or plaintiffs shall be non-suited, and no suit shall ever be maintained for the same.

Rules in actions
of *quare clau-*
sum frigit.

Sec. 12th. *Be it further enacted*, That in all cases where the plaintiff shall die after service of process, and before final judgment, such action shall not abate, if the same might be originally prosecuted and maintained by the executors or administrators of such plaintiff, and if the defendant die after service of the process, and before final judgment, such action shall not abate if the same were originally maintained against the executors or administrators of such defen-

Actions not to
abate by the
death of parties

dant ; but the plaintiff (or if he be dead his executors or administrators) shall and may have a *scire facias* against the defendant, if he be living after the service of process. (or if he died after, against his executors or administrators) to shew cause why judgment shall not be had by the plaintiffs ; and if such defendant or his executors or administrators, shall appear at the return of said writ, and not shew or alledge any matters sufficient, or being returned warned, or upon two writs of *scire facias*, it be returned that the defendant, or his executors or administrators, had nothing whereby to be summoned, or could not be found in the county, a writ of enquiry of damages shall thereupon be awarded, which being executed, judgment shall be given for the said plaintiff, his executors or administrators ; and if there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of action should survive to the surviving plaintiff or plaintiffs, against the surviving defendant or defendants, the writ or action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants ; and in all actions real personal and mixed, if either party shall die between verdict and judgment, such death shall not be pleaded in abatement, but judgment shall be entered as if both parties were living.

Sec. 13th. *Be it further enacted*, That no suit shall hereafter be commenced in any court within this Territory, by a non resident, until, he or she, or his or her agent or attorney, shall file in the clerks office of such court, bond with approved security, who shall be a resident of this Territory, conditioned for the payment of all costs that may accrue in consequence thereof, either to the opposite party, or to any of the officers of said court, and the same may be put in suit by any of the persons aforesaid, for the non-payment

Non residen. to
give security for
costs.

of the sums that may respectively become due to them.

Sec. 14th. *Be it further enacted*, That if any person resident of this Territory, shall institute any suit in any of the courts of this Territory; and shall after the institution thereof, remove out of this Territory, such person shall be bound to give security for the costs of such suit, to be approved of by the clerk where such suit may be depending, in a bond to be executed by the said party his or her agent or attorney, under such penalty as the clerk may deem proper, conditioned for the payment of all costs that may accrue in consequence thereof, either to the opposite party, or to any of the officers of such court, which bond shall be given in the clerk's office of such court, on or before the first day of the next term of such court, after such removal of the plaintiff; and on failure thereof, such suit may at any time thereafter be dismissed on motion, and when any bond shall be given in pursuance of this act, it shall and may be lawful for the clerk of the court where the suit is depending, to issue any writ of execution against the plaintiff and the security in such bond, for all costs which may be adjudged by the court to the defendant against the plaintiff in any such suit; and it shall and may be lawful for the several officers of said court to issue their fee bills against the security in such bond, in the same manner that they might by law issue them against the plaintiff in any such suit.

Parties plaintiff removing, from the territory to give security for costs.

Sec. 15th. *Be it further enacted*, That in all and every species of action commenced in any of the courts of this Territory, having jurisdiction thereof, if the defendant or defendants shall remove out of the county where the action was commenced, and the same shall be certified by the sheriff or other officer to whom the process was directed, it shall be lawful to

In what cases process may issue from one county to another.

issue an alias writ, and every other legal process necessary to enforce the appearance of such defendant or defendants, directed to the sheriff or other proper officer of any county in this Territory.

Where there are two or more defendants, the plaintiff commencing his action where either resides, may issue writs to the counties where the others reside.

Sec. 16th. *Be it further enacted*, That in every species of personal actions, where there are more than one defendant, the plaintiff commencing his action in the county where either of them reside, may issue any writ or writs directed to any county where the defendants or any of them may be found: *Provided*, that should a verdict not be found against the defendant or defendants resident in the county where the action is commenced, judgment shall not be rendered in such action.

Personal actions not to die with the person, except actions for assault and battery slander, crim con. & for malicious prosecution.

Sec. 17th. *Be it further enacted*, That hereafter, no species of action for personal injuries shall cease or die with the person, except actions for assaults and batteries, slander, criminal conversation, and so much of the action for malicious prosecution, as is intended to recover for the personal injury, but, that for any other injuries than those herein excepted, an action may be brought and maintained by executors and administrators, or against executors and administrators in like manner with causes of action founded upon contract. And upon the decease of any plaintiff or defendant to any action which by the provisions of this section will not die with the persons, it shall be lawful for such action to be revived in the name of executors and administrators in the same manner, as other actions are now revived.

Where persons are sued as joint obligors, and

Sec. 18th. *Be it further enacted*, That in all cases where several persons are sued as joint obligors in the same writing, or as joint and several obligors, and the sheriff or other officer shall return on any process issued against any of the defendants that such defendant "is not an inhabitant of his county" the plaintiff may

bail may reside out of the county or district in which any such judgment may have been given, it shall and may be lawful for the clerk of the court to issue such *scire facias*, directed to the sheriff or other officer of the county where such defendant or bail may reside, whose duty it shall be to execute the same as above directed, and make return thereof to the court from which it issued; and where a writ of *scire facias* is returned that the defendant or defendants are not found, another shall issue; and if the second is returned that he or they are not found, it shall be considered as sufficient service of the writ: and no declaration shall be necessary on a writ of *scire facias*.

Sec. 27th. *Be it further enacted*, That whenever any suit shall be commenced on any writing, whether the same be under seal or not, the court before whom the same is depending shall receive such writing as evidence of the debt or debts for which it was given; and it shall not be lawful for the defendant or defendants in any such suit, to deny the execution of such writings, unless it be by plea, supported by the affidavit of the party putting in such plea, which affidavit shall accompany the plea, and be filed therewith at the time such plea is filed, which affidavit may be made before any justice of the peace, or before the clerk of the court before whom such suit may be depending.

Writing be received as evidence of the debt, unless divided on oath.

Sec. 28th. *Be it further enacted*, That whenever any suit is depending in any of the courts of this Territory, founded on any writing under the seal of the person to be charged therewith, it shall and may be lawful for the defendant or defendants therein, by a special plea, to impeach, or go into the consideration of such writing, in the same manner, as if the said bond had not been sealed.

The consideration of writings under seal, may be impeached.

Sec. 29th. *Be it further enacted*, That the plaintiff in replevin, and the defendant in all other actions, may

plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

Pleas of abatement & of non est factum, not to be received but under oath.

Sec. 30th Be it further enacted, That no plea in abatement shall be admitted or received, unless the party offering the same shall prove the truth thereof by oath or affirmation, as the case may be, and no plea of *non est factum*, offered by the party charged as the obligor or grantor of a deed, shall be admitted, unless it be in like manner sworn to, and where any other person than the obligor is defendant, such defendant shall make oath, that he verily believes the same is not the deed of the person, charged as the obligor or grantor thereof. Where a plea of abatement shall, upon argument, be adjudged insufficient, the plaintiff shall recover full costs, to the time of overruling such plea.

Where one of several counts is faulty, yet entire damages is good.

Sec. 31st. Be it further enacted, That where there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good; but the defendant may apply to the court to instruct the jury to disregard such faulty count.

in detinue if verdict omit damages, the court may order a writ of enquiry,

Sec. 32d. Be it further enacted, That in detinue, if the verdict shall omit price or value, the court may at any time award a writ of enquiry, to ascertain the same. If on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted.

When pleas shall be plead.

Sec. 33d. Be it further enacted, That the defendant or defendants shall file his or her plea or pleas, on or before the day to which the cause is docketted, at the first term at which a judgment can be rendered in said cause, and on failure, shall not thereafter be permitted to file any plea to the jurisdiction of the court, nor in abatement, nor to file a special demurrer to the declaration.

Sec. 34th. Be it further enacted, That on the calling of a cause, if a plea or pleas have not been filed, the

defendant, or defendants shall plead, the plaintiff or plaintiffs reply; and the defendants rejoin, and so on, until the issue or issues of law or fact are made up, and a trial shall thereupon be had, and if either party fail thus to complete the issue or issues, the court may enter judgment against him, her or them, for such failure. *Provided, however,* that the court may for good cause shewn, allow either party a further day, in that or the next succeeding term, to plead, reply or the like, such party paying the costs occasioned by the postponement: and where a demurrer shall be overruled, the defendant or defendants shall have leave to file any plea to the merits, which may be necessary for the justice of his case.

When pleadings, required to be made in stanter.

Sec. 35th. *Be it further enacted,* That the court may give leave to amend the declaration or other pleadings as heretofore, except that such amendment shall be filed immediately on obtaining leave to amend, unless for good cause the court give a longer time. If the amendment be in matter of form, the trial shall not be delayed in consequence thereof, if it be in matter of substance, the opposite party may immediately answer thereto, upon which the suit shall proceed as if no amendment had been made, or he may, at his election, demand a continuance until the next term. If the plaintiff amend his declaration, the defendant may immediately demur thereto for special cause, although the time hereinbefore mentioned for filing a special demurrer shall have elapsed; but if the defendant or defendants, demand a postponement of the suit, on account of such amendment, he, she, or they shall not be allowed to file a special demurrer to the amended declaration.

Court may give leave to amend pleadings.

Sec. 36th. *Be it further enacted,* That if in an action at law, the plaintiff omit to take judgment against a defendant or defendants, for failing to plead, when by the foregoing provisions he might so take judgment, the de-

Pl'tf, omitting to take judg't against def't for not pleading, def't may plead at any time before judgment without leave.

Court may compel the parties to complete their pleadings.

Powers of attorney, made before suit brought to confess judgment etc. null and void.

Plaintiff or defendant may challenge four of jury without shewing cause.

endant or defendants, at any time before a writ of enquiry is awarded and final judgment given, plead any pleas, the filing of which is not by this act limited to the first term; but where such plea or pleas are filed, the plaintiff may waive his right of trial at that term, and have a general continuance of the cause.

Sec. 37th. *Be it further enacted*, That if from any cause the issue or issues be not made up, at the time herein prescribed, the court shall possess the like power at each subsequent calling of the suit, until the issue or issues be completed, to compel the parties to complete the same.

Sec. 38. *Be it further enacted*, That the clerk shall endorse on all pleas the time when filed, and he shall, upon the application of either party, issue subpoenas for witnesses, as soon as the writ is issued.

Sec. 39th. *Be it further enacted*, That all powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever, within this Territory, before action brought, shall be, and are hereby, declared to be absolutely null and void.

Sec. 40th. *Be it further enacted*, That the plaintiff or defendant shall have the right of peremptory challenge to four of the jury summoned, and moreover shall possess the right of challenging as many others as he can shew good cause for so doing. No Physician, Surgeon, or Minister of any religious society, shall be compelled to serve upon a petit jury.

Sec. 41st. *Be it further enacted*, That if any court refuse to sign a bill of exceptions, when the same is tendered to them for that purpose, it shall be lawful for three persons to sign the same, in the presence of the said judge, and also that the same was presented to the judge, and he refused to sign it, which bill shall be as valid, and have the same force, as though it were

signed by the Judge of said court ; and the court shall permit the same to be filed, and become a part of the record. And if the Judge refuses to let the same be filed as aforesaid, the court of appeals may, when such cause is brought before them, by writ of error or appeal, upon affidavit of such refusal, admit such bill of exceptions as a part of the record.

When the court refuses to sign a bill of exceptions, it shall be lawful for three persons to sign the same.

Sec. 42d. *Be it further enacted*, That in all actions which shall be brought upon any bond or bonds, for payment of money, wherein the plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and interest due thereon, and the other costs of suit, and execution shall issue thereon accordingly ; or, if before judgment, the defendant shall bring into court the principal and interest due thereon, he shall be discharged, and judgment shall be entered for the costs only ; and in any action of debt on single bill, or in debt, a *scire facias* upon a judgment, or in debt upon bond ; if before action brought the defendant hath paid the principal and interest, due by the defeasance, on condition, he may plead payment in bar.

In cases of bonds, Judgment to be entered for the penalty, to be discharged by payment of principal interest & costs.

Sec. 43d. *Be it further enacted*, That private acts of the Legislative Council may be given in evidence without pleading them specially.

Private acts given in evidence

Sec. 44th. *Be it further enacted*, That juries *de medietate linguæ*, may be directed by the court to be summoned.

Juries how summoned.

Sec. 45th. *Be it further enacted*, That interpreters may be sworn truly to interpret ; when necessary, the Judge of the Superior Court at St. Augustine and Pensacola, shall appoint some competent person, well skilled, to execute the duties of interpreter of said court, and the said interpreter, shall receive one dollar for each suit in which his services may be required, to be taxed in the bill of costs.

Interpreters &c

Non suits to be
made before Ju
rors retire.

Sec. 46th. *Be it further enacted*, That every person desirous of suffering a non-suit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar.

Scrolls may be
used as a seal.

Sec. 47th. *Be it further enacted*, That any instrument to which the person making the same, shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation, as if it were actually sealed.

Jurors to dis-
close.

Sec. 48th. *Be it further enacted*, That jurors knowing any thing of the point in issue, shall disclose the same in open court.

When Judg-
ment after ver-
dict shall not be
reversed.

Sec. 49th. *Be it further enacted*, That no judgment after verdict of twelve men, shall be staid or reversed, for any defect or fault in any writ, original, judicial, or for a variance in the writ from the declaration or other proceedings, or any mispleading, insufficient pleading, discontinuance, misjoining of the issue, lack of a warrant of attorney, or for the appearance of either party, being under the age of twenty one years, by attorney, if the verdict be for him, and not to his principal, or for not alleging any deed, letters testamentary or commission of administration, to be brought into court or for omission of the words "with force and arms" or "against the peace," or for mistake of the christian name or surname of either party, sum of money, quantity of merchandise, day, month or year, in the declaration or pleading, the names, sum, year or quantity, being right in any part of the record or proceedings, or for the omission "this he is ready to verify." or "this he is ready to verify by the record," or for not alleging that the suit or action is within the jurisdiction of the court, or for any informality in entering up the judgment by the clerk; neither shall any judgment entered upon confession, or by *nihil dicit* or *non sum informatus* be reversed, nor a judgment after enquiry of damages be stayed or reversed for any omission or fault.

which would not have been a good cause to stay or reverse the judgment, if there had been a verdict.

Sec. 50th. *Be it further enacted*, That in all cases, the plaintiff shall endorse in a memorandum book, to be kept by the clerk for that purpose, what species of action he has brought, and it shall be the duty of the clerk to endorse the same upon the writ, that the officer executing the same, may know whether bail is demandable or not.

Plaintiff shall endorse in a memorandum book to be kept by the clerk for that purpose, species of action etc.

Sec. 51st. *Be it further enacted*, That no person or persons shall be arrested upon any original or mesne process, or required to give bail, unless upon affidavit being filed with the clerk of the court or justice of the peace from which such process is about to be issued, stating that the plaintiff or plaintiffs, or his agent or attorney, as the case may be, verily believes that the person or persons against whom such process is about to issue, will leave the Territory, or move his property out of the same before judgment, or otherwise abscond, so that the process of the court after judgment cannot be executed; and upon such affidavit being filed, the clerk shall endorse that bail is required, and the amount thereof, which shall in no case exceed the amount which the plaintiff in his affidavit, states he expects to recover from the defendant or defendants.

Bail not to be exacted but on oath.

Sec. 52d. *Be it further enacted*. That the service of a writ, whereon no bail is required, shall be by reading the writ to the defendant, or delivering him a copy thereof, or leaving such copy at his usual place of abode with some white member of the family above the age of fifteen years, and informing said white person of the contents thereof, or if he will not hear the writ or receive a copy, then throwing down such copy in his presence, and it shall not be lawful for the sheriff or other officer to return that he was kept off by force from executing such writ, and when any writ which requires the sheriff or other officer to take bail, and

The manner in which writs not requiring bail are to be served

the defendant shall use arms or threats, to keep off such sheriff, he may in like manner, throw down a copy of the writ in his presence, and return "a copy left," whereon the plaintiff may order an attachment, as in cases of a common return of a "copy left."

Service on one
of firm binding
on the rest.

Sec. 53d. *Be it further enacted*, That the service of process upon any one member of a mercantile or other firm, if the other persons composing the same, do not reside or are not within the jurisdiction of the court, shall be as valid in law as if service were had upon the whole of the members constituting it, and judgment shall be rendered against the firm accordingly.

Judge failing
to appear court
to be adjourned

Sec. 54th. *Be it further enacted*, That when any judge shall not attend on the first day of any term, the court shall be adjourned by the Marshal or other officer, until twelve o'clock the second day, and it shall be the duty of the clerk at that time, to continue all causes, until the next term.

Repealing

Sec. 55th. *Be it further enacted*, That this act shall be in force from and after the first day of March next, and that the act passed December 30th, 1824, regulating judicial proceedings, and all other acts or parts of acts inconsistent with the provisions of this act, be and the same are hereby, repealed.

Passed, January 11th, 1827.

H. D. STONE,

President of the Legislative Council

GEORGE E. TINGLE, *Clerk*.

[Approved, January 19th, 1827.]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To regulate Chancery Proceedings.

Be it enacted by the Governor and Legislative Council of the Territory of Florida. That in all causes of chancery, no subpoena shall issue, until the complainant file his or her bill, with the clerk of the court in which the same may be brought ; whose duty it shall be upon the filing of the same to make out a subpoena and deliver the same to the proper officer.

No subpoena shall issue, until the complainant file a bill with the clerk of the court.

Sec. 2. Be it further enacted. That the form of a subpoena in chancery shall be as follows :

TERRITORY OF FLORIDA GREETING :

You are hereby commanded and strictly enjoined, to personally appear before the Judge of our court for

Form of a subpoena.

on the day of to answer a bill of complaint exhibited against you by and this you are not to omit under a penalty of one hundred dollars clerk of said the day of

Sec. 3. Be it further enacted. That the complainant may insert as many defendants as he pleases, though they claim under different titles, but if any of the defendants disclaim, he shall pay them their costs, except for special reasons appearing, the court shall otherwise decree, and he shall also pay to each defendant, any costs he may incur, in consequence of any contest and claim in which he is not interested.

Complainant may insert as many defts as he pleases, but if defts disclaim, he shall pay them their costs.

Sec. 4. Be it further enacted, That original and mesne process in chancery suits, shall be returnable to the first day of the next succeeding term after they issue, unless they issue in term time, in which case they may be made returnable to any day of that term.

Original & mesne process, how returnable if in term time.

Sec. 5. Be it further enacted, That if in any suit in chancery, the process shall not be returned executed

When process shall not be re-

turned executed on the return day.

on the return day, the clerk may issue an *alias pluries*, or other process, without an order of the court therefor.

When the defendant shall plead answer etc if either party fail to complete the issue, the court may enter a decree.

Proviso, when the cause may be continued.

Plea or demurrer overruled, party may thereafter answer.

Either party may lodge an

Sec. 6. *Be it further enacted*, That the defendant or defendants in chancery shall plead, answer, or demur, on or before the first day of the term, next succeeding the one to which the process may be returned executed, and on the calling the cause at such term, the complainants shall reply, and the defendant or defendants rejoin, and so on if necessary until the issue or issues of law or fact be made up; and if either party fail thus to complete the issue or issues, the court may enter a decree against him, her or them, for such failure; *Provided however*, That if the complainant be called upon to answer interrogatories, contained in the answer of a defendant or defendants, the cause shall be continued, unless the complainant or complainants voluntarily answer at that term; and in case a suit be thus continued for an answer to interrogatories, the answer shall be filed, on or before the first day of the next term, and the issue or issues shall be completed at such second term, if the issue be made up by bill, answer and replication, or the like, whereby depositions are to be taken, the cause shall stand for hearing at the term next after the issue is made up. If on a plea filed, an issue of fact be made up for trial by jury, the court shall appoint the time of trial. If an issue in law be made up by demurrer, it shall stand for argument at the time at which it is made up.

Sec. 7. *Be it further enacted*, That if a plea or demurrer be overruled, the party may thereafter answer; or if exceptions to an answer be adjudged sufficient, the court shall appoint a time in which the party shall file his answer; and on his failing to answer, may proceed as on a failure to answer in other cases.

Sec. 8. *Be it further enacted*, That in suits in chancery, either party may lodge his, her, or their answer,

plication or other pleadings, with the clerk in vacation; but the opposite party shall not be bound to notice such answer, replication, or other pleadings, as filed, until the same be entered in court.

Sec. 9. *Be it further enacted*, That, in chancery, after an appearance or subpoena executed, or advertisement, the amendment of the bill or other pleadings shall not require a new subpoena or publication.

Sec. 10. *Be it further enacted*, That when the subpoena is returned executed, and the defendant or defendants fail to answer the bill, as required by this act, the complainant may proceed to take his bill *pro confesso*, and the court shall decree the matter thereof; or he may have a general commission to take depositions; or he may move the court to bring in the defendant to answer to interrogatories at his election, and proceed on to trial in the two last cases, as though the answer had been filed, and the case was at issue: *Provided*, that the court, for good cause shown, may grant a further day for the filing of the answer and hearing the cause.

Sec. 11. *Be it further enacted*, That every defendant may swear to his or her answer, before any judge or justice of the peace.

Sec. 12. *Be it further enacted*, That the defendant or defendants may make his or her answer a cross bill, and the defendants to the said cross bill, shall be compelled to answer, in the same manner as defendants to original bills are now compelled; and when it is necessary for the defendants to bring a new party before the court, he shall state it in his answer, and thereupon a subpoena shall be sent out, and other proceedings had, as in case of other defendants.

Sec. 13. *Be it further enacted*, That after answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the court ever thereaf-

answer, replication etc. with the clerk, in vacation.

After an appearance, or subpoena executed, etc.

When the defendant fails to answer, how the complainant may proceed.

The court may grant a further day for filing an answer.

Def't swear to his answer.

Def't. may make his answer a cross bill.

When the defendant brings a new party before the court.

After answer filed etc. no exception to jurisdiction of court.

except in cases
of land etc.

ter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting land, lying without the jurisdiction of such courts, or of infants and feme covert:

Answer filed if
the complainant
deems it insuffi-
cient he shall
file his excep-
tions, etc. etc.

Sec. 14. *Be it further enacted*, That whenever any answer is filed, if the complainant deems the same insufficient, he shall file his exceptions, and the same shall be set down for argument, at the same term the answer may have been filed; unless for good cause, the same shall be continued by the court; if upon argument, the complainants exceptions shall be overruled, or the defendants answer judged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the court.

When plea or
demurrer is o-
verruled.

Sec. 15. *Be it further enacted*, That if a plea or demurrer be overruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill.

Plea or demur-
rer overruled
costs shall be
paid.

Sec. 16. *Be it further enacted*, That upon a plea or demurrer argued and overruled, costs shall be paid, as where an answer is judged insufficient, and the defendant shall answer within one month after; but if adjudged good, the defendant shall have his costs.

Discovery on
oath answer to
be laid before
the Jury.

Sec. 17. *Be it further enacted*, That when either party has been called on for a discovery on oath, and the fact, as to which the discovery was prayed, is afterwards submitted to a jury, the answer put in as to such fact, shall be laid before the jury, in the same manner as is practised with regard to answers on an issue, directed to be tried at law by a court of chancery.

Complainant
may proceed to
take depositions
one month af-
ter def't is serv-
ed with process.

Sec. 18. *Be it further enacted*, That the complainant or complainants may proceed to take depositions, one month after the defendant or defendants against whom the depositions are to be read, are served with process, the defendant may proceed to take depositions one month after he files his answer, it shall be unpe-

necessary for either party to have a *dedimus* for that purpose, unless the witnesses live out of the Territory, in all cases of taking depositions, the party taking the same, shall give to the opposite party, reasonable notice of the time and place of taking such depositions, and if the defendant live out of the Territory, notice to his attorney in fact, if any is on file in the office of the court in which the suit is depending, and where no such notice is filed, then notice to his attorney at law, or an advertisement inserted once a week, for at least two weeks, in some newspaper printed in the Territory, shall be sufficient, but no notice shall be necessary to any defendant, except such as it is intended to use the deposition as evidence against.

Opposite party to have reasonable notice.

When the def't lives out of the territory.

Sec. 19. *Be it further enacted*, That after any bill filed, and before the defendant hath answered, upon oath made, that any of the complainants witnesses, are aged, infirm or going out of the Territory, the clerk may issue a commission for taking the depositions of such witnesses, *de bene esse*, the party praying such commission, giving reasonable notice, as provided by this act, of the time and place of taking such depositions.

Where compl'ts witnesses are aged, infirm, or going out of the Territory.

Sec. 20. *Be it further enacted*, That depositions may be taken before a judge, justice of the peace, or notary public, at the option of the parties.

Depositions how taken.

Sec. 21. *Be it further enacted*, That whenever it is necessary to revive a suit in chancery, in which the answer of the defendant deceased shall have been filed, an order of the court for that purpose, reviving the same in the names of the legal representatives of the deceased, shall be sufficient, without bill of revivor.

To revive a suit in which the answer of the def't dec'd shall have been filed.

Sec. 22. *Be it further enacted*, That in suits in chancery, against absent defendants, it shall be lawful for the court, upon motion, to order a publication to be made in some newspaper, printed in the territory, of the pendency of said suit, at least eight weeks succes-

Suits against absent def'ts, et. to order a publication in some

newspaper, 8
weeks succe-
sively

Proviso.
Def't allowed to
open a decree
within 7 years,
for a rehearing.

Injunction may
be issued by
the judge, in
term time, or
vacation.

complainant
shall enter
into sufficient
security.

Injunction for
what amount
granted.

Injunction dis-
solved, compl't
pay ten per ct.

Appeal or writ
of error not sus-
tained to stay
dissolution of
injunction.

sively ; and it shall authorise the complainant, to proceed in the same manner as though the process were returned executed to the term, at which said defendant may, by such publication be required to enter an appearance. *Provided however,* that such defendant or defendants be allowed, to open a decree in such cases, at any time within seven years, by petitioning the court for a rehearing, and putting in his or her answer.

Sec. 23. *Be it further enacted,* That injunctions may issue to stay proceedings at law, by the judge in term time, and vacation, when he shall be satisfied of the plaintiff's equity by the facts stated in the bill, which shall be sworn to, and shall order the same ; in which case the complainant shall enter into sufficient security, to be approved of by the judge, for paying all monies and costs due, or to become due, to the plaintiff in the action at law, and all such costs as shall be awarded against him or her, in case the injunction shall be dissolved.

Sec. 24. *Be it further enacted,* That no injunction shall be granted to any judgment at law, for a greater sum than that which the complainant shall show himself not to be equitably bound to pay, and so much as shall be necessary to cover the costs ; no injunction shall be granted, until the party release all error in the proceedings at law, which are prayed to be enjoined. If the injunction is dissolved, in whole or in part, the complainant shall pay ten per cent. exclusive of legal interest, upon the sum for which it shall be dissolved, besides costs, and the clerk of the court, at which the judgment at law was obtained, shall issue his execution for the same, when he issues an execution upon said judgment.

Sec. 25. *Be it further enacted,* That an appeal, or writ of error shall not be sustained to stay or reverse an order or decree of discharge, or dissolution of an injunction, but any two judges of the court of appeals,

inspecting the records, may by their order, reinstate the injunction; *Provided*, they shall be of opinion the same was improperly discharged or dissolved.

2 judges of ct. of appeals, reinstate injunction.

Sec. 26. *Be it further enacted*, That all suits in chancery, which may be brought against the heirs of any decedent, where the names of such heirs are known, may be brought against such heirs, where the names are unknown to the complainant; *Provided*, that the complainant before the emanation of any process, or making any order against such heirs, do file in the clerks office, with his or her bill, an affidavit, stating that he or she does not know the names of such heirs.

Suits in chancery against heirs unknown, how brought.

Sec. 27. *Be it further enacted*, That in all cases where the names of some of the heirs are known to the complainant, and some are unknown, and in all cases where the complainant shall know the names of some of the heirs, and shall not know whether there are others or not, it shall be lawful for him or her to proceed by subpoena against those who are known, and by advertisement against those who are unknown, in the same manner he or she might, if the names of all were unknown.

Where the names of some of the heirs are known, & some unknown, how compl't shall proceed.

Sec. 28. *Be it further enacted*, That if a complainant in chancery, on the calling of the cause, shall fail to prosecute it, and the defendant shall also fail to appear, the court may, in their discretion, enter either a nonsuit against the complainant or defendant, or continue the cause.

When compl't fails to prosecute, and def't fails to appear.

Sec. 29. *Be it further enacted*, That whenever a final decree of any court, exercising chancery jurisdiction, shall be rendered, decreeing a conveyance for the legal title of lands, if the defendant or defendants

Decree for conveyance of legal title of lands, etc appoint commissioners.

do not, on or before the day mentioned in said decree, for making said conveyance, make or cause the same to be made accordingly, the court may appoint one or more commissioners to make such deed, which when made, shall vest the legal title in said complainant or complainants.

When some of the defendants are out of the Territory, and others with in the same having in their hands effects of, or otherwise indebted to such absent defendants, how proceeded against.

Sec. 30. *Be it further enacted*, That if any suit shall be depending, or hereafter commenced in any court of chancery in this territory, against any defendant or defendants, who are out of this territory, and others within the same, having in their hands effects of, or otherwise indebted to such absent defendant or defendants, and the appearance of such absentees be not entered, and security given to the satisfaction of the court, for performing the decrees, upon affidavit that such defendants are out of the territory, the court may make an order and require security, to restrain the defendants in this territory from paying, conveying away, or secreting the debts by them owed to, or the effects in their hands of such absent defenders, and for that purpose may order such debts to be paid, and effects delivered to the said plaintiff or plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the court shall direct; if the complainant fail or refuse to give such security the effects shall remain in the discretion of the court, and shall be disposed of in such manner as they may think just: *Provided*, that before any final decree entered, the court shall require advertisement to be made against such absentees, as is now required by law to be made against absent defendants.

Act to be in force from the 1st March next, other acts repealed.

Sec. 31. *And be it further enacted*, That this act shall continue and be in force from the first day of March next; and the act regulating chancery proceedings, passed July 23d, 1823, and the act to amend the

act regulating chancery proceedings, passed December 22d, 1824. and all other acts or parts of acts, repugnant to the provisions of this act, be and the same are hereby repealed.

Passed, January 2d, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

[Approved, January 12th, 1827.]

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

Prescribing the mode of Criminal Proceedings.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That after any person shall be indicted for treason or felony, if he be not already in custody, the sheriff or other officer, shall be commanded to attach his body, by writ or precept, called a *capias*; and if he return that the body is not found, another writ or precept of *capias*, shall immediately be made returnable forthwith, in which the sheriff, or other officer shall also be commanded to seize his chattels, and safely to keep them; and if he return that the body is not found, and the indictee cometh not, an *exiguit* shall be awarded.

Persons indicted for treason or felony, not in custody, how proceeded against.

Sec 2. *Be it further enacted,* That when the grand jury shall have presented to a court, having criminal jurisdiction, a bill of indictment against any person charged with treason or felony, the court shall cause the offender to be arraigned and tried at the same term, if he be in the custody of the jailor, or if he be bailed and forth-

Person indicted and in custody or bailed, tried at same term,

Prisoner allowed counsel to assist him.

coming agreeable to his recognizance, unless they see good cause to adjourn the trial to the next term; and shall allow him counsel to assist him if he require it.

When prisoner may be bailed,

Sec. 3. *Be it further enacted*, That when any prisoner committed for treason or felony, shall apply to the court the first day of the term, by petition or motion, and shall desire to be brought to his trial before the end of the term; unless it appear by affidavit, that the witnesses against him, cannot be produced in time, the court shall set him at liberty, upon his giving bail in such penalties, as they shall think reasonable, to appear before them at a day to be appointed of the succeeding term.

When prisoner shall be discharged, from neglect of indictment or trial

Sec. 4. *Be it further enacted*, That every person charged with such crime, who shall not be indicted before or at the second term after he shall have been committed, unless the attendance of the witnesses shall appear to have been prevented by himself, shall be discharged from his imprisonment if he be detained for that cause only. And if he be not tried at or before the third term after his examination, he shall forever be discharged from the crime.

Prisoner have copy of indictment etc.

Sec. 5. *Be it further enacted*, That in all trials for such offences, the prisoner shall have a copy of the indictment and of the panel of the jurors who are to try him, whenever he shall require it.

Clerk shall issue a venire facias—when the sheriff is the accused or disqualified.

Sec. 6. *Be it further enacted*, That it shall be the duty of the clerk of the court, where any person, charged with any crime as aforesaid, is about to be tried, to issue a venire facias directed to the sheriff or other officer of the court, unless he be the accused or otherwise disqualified, and in that case, to the coroner, commanding him to summon twelve good and lawful men of the vicinage, to attend in such case, as a venire before the court, at the first day of the term, or at such other time as the judge shall direct, and the offi-

per executing the said writ shall also make out and return a panel of the jurors so summoned

Sec. 7. *Be it further enacted*, That where the sheriff and coroner shall be both implicated in the criminal charge, or otherwise disqualified to act, or one only being implicated, the other shall be related to him, it shall be the duty of the court before whom the accused is to be tried, to appoint some impartial person to summon a *venire facias*, to whom the writ of *venire facias* shall be accordingly directed, and who shall be governed by the same laws, rules and regulations, as in such cases apply to the sheriff, coroner or ministerial officer of the court.

When the sheriff and coroner shall be both implicated.

Sec. 8. *Be it further enacted*, That the *venire* so summoned as aforesaid, or such of them as appear and be not challenged, together with so many other good and lawful men of the bystanders, being housekeepers, within this Territory, as will make the number twelve, or if the whole array be challenged; twelve of such bystanders shall be a lawful jury for the trial of a prisoner.

Jury, of whom to consist.

Sec. 9. *Be it further enacted*, That whenever in treason or felony, any person shall stand mute on his arraignment, or persist, after being admonished by the court, in not answering to his indictment, or in peremptorily challenging above the number of jurors, which by law he is allowed to challenge peremptorily, he shall be considered as convicted, and the same judgment, execution and disabilities shall take place and be awarded, as if he had been convicted by verdict or confession of the crime.

Prisoner standing mute, not answering &c shall be considered as convicted

Sec. 10. *Be it further enacted*, That a *capias*, *scire facias*, *venire facias*, or any other process to arrest a defendant, or cause an appearance in any plea of the Territory, shall be returnable to the first day of the next term, unless directed by the court to be return-

Capias scire facias etc—when returned

ed to some day of the term, on which it is awarded, and they may issue to any county in this territory.

True bill found,
and defendant
not appearing,
how proceeded
against

When court or-
der capias in
first instance

Sec. 11. *Be it further enacted*, That when an indictment for a misdemeanor shall be found "a true bill." and the defendant or defendants shall not be in custody of the officer, nor on bail, a *venire facias* shall issue, to summon the defendant or defendants, to appear and answer such indictment; and if the defendant or defendants shall not appear on the return of the *venire facias* executed, a *capias*, *alias capias* &c. shall issue. Provided however, that the court in case of a heinous nature, or where the defendant or defendants are likely to evade punishment, may order a *capias* in the first instance

Court shall
name the sum
in which defend-
ant shall be
admitted to bail

Sec. 12. *Be it further enacted*, That whenever a *capias* shall issue on an indictment for a misdemeanor or other crime, bailable by law, it shall be the duty of the court to name the sum in which the defendant may be admitted to bail, which shall be endorsed by the clerk on such *capias*, and subsequent process when it issues. and when the officer shall arrest such defendant, he shall admit him or her on bail, on his or her entering into a bail bond to the Governor, for the time being, and his successors in office, to the use of the Territory, with two securities, to be approved of by the officer, conditioned to be void upon his appearing in court on the return day of such process, and surrendering himself or herself in custody; which bail bond if forfeited, may be proceeded on in the same manner as a recognizance of bail taken before the court. And if it shall so happen that the court shall not name the sum in which the defendant may be admitted to bail, or the clerk shall fail to endorse it, the said process shall be good in law, and the defendant or defendants shall be admitted to bail by any judge having jurisdiction of the offence.

securities to be
approved by the
officer

Sec. 13. *Be it further enacted,* That if the sheriff of the county or the ministerial officer of the court be defendant in a criminal prosecution, or be charged with being an accomplice or accessory in any manner thereto, or be related to the defendant, the clerk shall direct the *venire facias* for the jury, to the coroner of the county; or if he be subject to any of the exceptions aforesaid, or be absent, he shall direct the same to the justice of the peace of said county, eldest in commission, who may not be subject to any of the exceptions aforesaid, and who has not been concerned in the trial or commitment of the defendant. But nothing in this act shall prevent the courts of criminal jurisdiction from quashing or setting aside the array as heretofore, for partiality or improper conduct in the officer returning the same; and in such case the court shall award a new *venire facias* for a jury, directed to such indifferent person as they may name.

Sec. 14. *Be it further enacted,* That no judgement in a prosecution, founded on information or indictment, shall be arrested or reversed, after a verdict thereon, for any defect in form in such indictment, information or verdict; *Provided* such indictment or information shall substantially contain a specific charge of an offence punishable by law; and provided the verdict shall substantially comport in law with such charge, or the material parts thereof.

Sec. 15. *Be it further enacted,* That a petit or traverse jury, shall have a right to find part of an indictment or information true, and if such part shall substantially contain a charge of felony, the defendant shall be punished according to the crime charged, in such part, and the finding thereon; and if a jury find part of an indictment or information true, and say nothing as to the residue thereof, it shall be good in law and taken as a finding of the residue for the defendant.

When sheriff or other officer defendant in crim'l prosecution, clerk to issue *venire facias* for jury, to the coroner, unless in certain cases.

Judgment on indictment shall not be arrested for any defect in form etc

Where a petit jury finds part of an indictment true

Variance between indictment & commitment not error

Before swearing a Jury, if the indictment be quashed etc no bar against new proceedings,

Discharge before Justice, no bar to prosecution again

Cases of habeas corpus, where proceedings defective—the ct. or Judge shall not discharge, but remand to custody, or admit to bail.

Feme covert or infant bailable. Recognizance forfeited, how proceeded against.

Sec. 16. *Be it further enacted*, That a variance between the indictment, and commitment or proceedings, previous to the indictment, shall not be error.

Sec. 17. *Be it further enacted*, That if before the swearing of a jury for the trial of an indictment or information, it be abated, quashed, set aside or a *nolle prosequi* be entered thereon, it shall be no bar against new proceedings by indictment or information. And the defendant or defendants shall not be discharged, but shall be committed or bailed, according to the nature of the case, for new proceedings to be had against him, her or them. If any person charged with any felony, murder or treason, shall be apprehended and brought before a justice of the peace, and discharged, it shall be no bar to his or her being prosecuted again.

Sec. 18. *Be it further enacted*, That in all cases of application by *habeas corpus* to a court or judge, if he or they be of opinion that the prisoner hath been guilty of any misdemeanor, felony, murder or treason, for which such prisoner may be liable to a trial, but that the proceedings are so defective that the prisoner cannot be detained in custody, under those proceedings, such court, judge or judges shall not discharge the prisoner, but shall admit him or her to bail if the case be a bailable one, to appear in the court having jurisdiction of the case, or remand him to the custody of the officer, to be conveyed to the proper county, for new proceedings to be had against such prisoner.

Sec. 19. *Be it further enacted*, That a *feme covert*, or infant who may be a defendant in a criminal case, which may be bailable by law, or who may be a witness for the Territory, may enter into any recognizance required or authorised by law, and if such recognizance be forfeited, the proceedings thereon shall be the same as in other cases, except that the *scire*

facias shall also issue against, and be served on the husband of such feme covert, and parent or guardian of such infant, before judgment shall be rendered against either of them.

Sec. 20. *Be it further enacted*, That when the attorney for the Territory conceives that any person or persons may have forfeited a recognizance, by him, her or them entered into, he may direct a *scire facias* on the recognizance, and the defendant or defendants shall, at the term to which such process is returned executed, appear and plead, and the court shall proceed to give judgment the same term, unless ~~continued~~ for ~~good~~ cause shewn. And if the defendant or defendants shall not appear and plead, judgment shall be entered against either of them.

Recognizance
forfeited how
Attorney for
Territory shall
proceed

Sec. 21. *Be it further enacted*, That in empaneling grand juries in the several courts of this Territory, the grand jury shall elect their foreman, who shall take the oath prescribed by law, and all presentments and indictments shall be returned by the grand jury, by their foreman. If a presentment, signed by him, and if an indictment, endorsed on the same "a true bill" and signed also by the foreman.

Grand Juries,
mode of pro-
ceeding

Sec. 22. *Be it further enacted*, That the provisions of this act shall extend to all criminal cases whatsoever, which may hereafter arise under any law of this Territory.

Provisions of
this act shall ex-
tend to all cri-
minal cases

Sec. 23. *Be it further enacted*, That when the attorney for the Territory may direct a *scire facias* on any recognizance which he may conceive forfeited, and the defendant or defendants shall appear and plead, and tender the body of the person or persons for whose appearance in court he or they were bound, it shall be the duty of the court to receive such person or persons and order them into custody, unless new and sufficient

Where the de-
fendant shall
appear, and
tender the bo-
dy of the person
for whose ap-
pearance in ct.
he is bound

bail be given, and to discharge all further proceedings in said *scire facias*.

Passed 16th January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk*.

[Approved, January 19th, 1827.]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To provide for the punishment of crimes and Misdemeanors.

Wilful murder
punished with
death.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That if any person or persons shall commit the crime of wilful murder, such person or persons shall, on being thereof convicted, suffer death.

proceedings
against as for wil-
ful murder.

Sec. 2. *Be it further enacted*, That every person liable to be prosecuted for petit treason, shall in future be indicted, proceeded against and punished, as directed in other kinds of wilful murder.

Manslaughter
punished by fine
or by whipping

Sec. 3. *Be it further enacted*, That if any person or persons shall hereafter commit the crime of voluntary manslaughter, and be thereof convicted, such person shall be punished by fine, not exceeding one thousand dollars, or by whipping not exceeding fifty stripes.

Involuntary
manslaughter
punished by fine
or by whipping

Sec. 4. *Be it further enacted*, That if any person shall commit the crime of involuntary manslaughter, and be thereof convicted, such person shall be fined not exceeding six hundred dollars, or by whipping not exceeding thirty nine stripes.

Sec. 5. *Be it further enacted*, That if any person or persons, on purpose, and of malice aforethought, shall

unlawfully cut or bite off the ear or ears, or cut out or disable the tongue, put out an eye while fighting, or otherwise; slit the nose or lip, cut or bite off the nose or lip, or cut off or disable any limb or member of any person whatsoever, shall be deemed guilty of *mayhem*, and in every such case, the person or persons so offending, their counsellors, aiders and abettors, shall on conviction thereof pay a fine not exceeding one thousand dollars, and shall receive not more than fifty lashes.

Mayhem, how punished.

Sec. 6. *Be it further enacted, That* every person who shall assault another, with an intent to commit murder, rape or robbery, shall on conviction thereof be fined a sum not less than three hundred dollars, or shall receive not exceeding fifty lashes, and shall also give security to keep the peace for the term of one year.

Assault with intent to commit murder, rape or robbery, how punished.

Sec. 7. *Be it further enacted, That* any person who shall carnally and unlawfully know any woman against her will or consent, and all persons who are accessory thereto before the fact, shall be deemed guilty of felony, and upon due conviction thereof shall suffer death.

Carnally knowing any woman against her consent, how punished.

Sec. 8. *Be it further enacted, That* if any person shall carnally know and abuse any woman child, under the age of ten years, every such carnal knowledge shall be felony, and upon due conviction thereof, shall be fined three hundred dollars, or stand in the pillory two hours for three successive days, and receive thirty nine lashes.

Carnally knowing and abusing any woman child under the age of ten years, how punished.

Sec. 9. *Be it further enacted, That* if any person or persons shall hereafter be guilty of stealing or selling any free person for a slave, knowing the said person so sold to be free, and shall be thereof legally convicted, the person or persons so convicted shall be fined not exceeding five hundred dollars, and stand in the pillory not exceeding three hours.

Stealing or selling any free person for a slave, how punished.

Sec. 10. *Be it further enacted, That* every person who shall wilfully and maliciously burn any dwelling house,

Arson, punished
with death.

store, cotton house, gin or out house, or building adjoining such dwelling house or store, shall be deemed guilty of arson, and upon being legally convicted thereof, shall suffer death.

Wilfully burn-
ing any out-
house, barn, sta-
ble, hovel, crib,
stack of hay
fodder &c. how
punished.

Sec. 11. *Be it further enacted*, That if any person shall wilfully burn any outhouse, barn, or stable, not adjoining some dwelling house or store; or shall burn any hovel, crib, cock, mow, or stack of hay, fodder, corn or grain; or shall be accessory to either of the said offences, before the fact, shall, upon conviction thereof, pay double the damages that any person may sustain thereby, and shall receive not more than fifty lashes.

Robbery, how
punished.

Sec. 12. *Be it further enacted*, That every person who shall commit the crime of robbery, and be thereof duly convicted, shall be punished by a fine not exceeding one thousand dollars, and whipping not exceeding fifty stripes.

Burglary, how
punished.

Sec. 13. *Be it further enacted*, That every person who shall commit the crime of burglary, and be thereof duly convicted, shall be punished by standing in the pillory for one hour, and not more than three hours, and a fine not exceeding five hundred dollars, and whipping not less than fifty stripes.

Feloniously tak-
ing any goods
out of church,
&c. or robbing
any person in
his dwelling, the
owner or dwell-
er being within,
how punished.

Sec. 14. *Be it further enacted*, That if any person or persons shall feloniously take any goods or chattels, out of any church, chapel or meeting house, belonging thereto, or shall rob any person or persons in their dwelling houses or dwelling places; the owner or dweller in the said house, or dwelling house, or dwelling place, his wife children or servants then being within; and put in fear or dread, by the same; or shall feloniously break any dwelling house by day, and take away any goods or chattels being in any dwelling house, the owner or any person being therein, and put in fear, such offender, his, her or their aiders, counsellors and

robbers, being thereof duly convicted, shall be fined not exceeding five hundred dollars, and receive not more than fifty lashes.

Sec. 15. *Be it further enacted*, That if any person or persons shall be convicted of stealing, taking and carrying away any money, goods or chattels, belonging to another, or aiding, counselling and abetting any one in committing such offence, upon being duly convicted thereof, he or they shall be fined not less than fifty, nor more than five hundred dollars, and receive not less than ten, nor more than fifty lashes.

Stealing, taking and carrying away any money or chattels, how punished.

Sec. 16. *Be it further enacted*, That robbery or simple larceny of obligations or bonds, bills obligatory or bills of exchange, promissory notes for the payment of money, or notes for the payment of any specific property, lottery tickets, papers, bills of credit, cotton receipts, or receipts of any other name or nature, certificates granted by or under the authority of this Territory or of the United States, or of any of them; shall be punished in the same manner, both as to the principal and accessory, as the crime of simple larceny of goods and chattels.

Robbery of bonds, bills promissory notes, lottery tickets, cotton receipts, &c punished as larceny of goods and chattels.

Sec. 17. *Be it further enacted*, That if any person shall receive or buy any goods or chattels, that shall be feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen, or shall receive, harbor or conceal any felons, or thieves, knowing them to be so, he, she or they being guilty of either of the said offences, upon being legally convicted, shall restore the goods so received, or pay double the value thereof, and shall receive not more than forty lashes.

Receiver or purchaser of stolen goods harboring or concealing felons or thieves, how punished.

Sec. 18. *Be it further enacted*, That if any person do feloniously take or steal any horse, mare or gelding, foal or filly, ass or mule, the person so offending shall

Stealing any horse, mare, gelding, filly, ass

or mule, how
punished.

pay a fine not exceeding five hundred dollars, and be whipped not exceeding fifty lashes.

Receiving or
buying any horse
or mule
knowing it to
have been sto-
len, harboring or
concealing the
thief, how pun-
ished.

Sec. 19. *Be it further enacted,* That if any person or persons shall receive or buy any horse, ass or mule, that shall have been feloniously taken or stolen, from any other person, knowing the same to have been stolen, or shall harbour or conceal any horse or mule stealer, knowing him to have so offended, such person shall be deemed and taken as an accessory to such felony, and being of either of the said offences legally convicted, shall be fined not more than three hundred dollars, and be whipped not exceeding thirty-nine lashes.

When the prin-
cipal felon can-
not be taken so
as to be prose-
cuted, the buyer
and receiver lia-
ble to prosecu-
tion.

Sec. 20. *Be it further enacted,* That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence; it shall and may be lawful to prosecute every such person or persons, buying and receiving any such animal as aforesaid, stolen by any such principal felon, knowing the same to have been stolen, and on conviction thereof, such offender shall be punished in the same manner as if the said principal felon had been previously tried and convicted.

Stealing neat
cattle, cows, or
other horned a-
nimals, except
goats, how pun-
ished.

Sec. 21. *Be it further enacted,* That if any person or persons shall feloniously steal any neat cattle, cow or other horned animal, except goats, and being thereof convicted, shall pay a fine not exceeding two hundred dollars, and shall receive not exceeding fifty stripes; and any person who is seen with fresh beef in his possession, and when charged with stealing the same, cannot satisfactorily account how he got the same, or produce and exhibit the hide thereof, he or she shall be deemed to have stolen the same, and on conviction shall be punished according to the provisions of this section.

Any person
with fresh beef
in his possession
to account how
he got the same.

Sec. 22. *Be it further enacted,* That every person who shall be legally convicted of stealing any hog, shoat,

pig, sheep or goat, shall, for every such animal so stolen, forfeit and pay to the owner, double the value thereof, and shall be whipped not exceeding fifty lashes, and stand in the pillory one hour.

Stealing any hog, sheep, pig, sheep, or goat, how punished.

Sec. 23. Be it further enacted. That every person who shall be convicted of altering or defacing the marks or brand of any horse, mare, colt, mule, ass, neat cattle, hog, sheep, or goats, not being his own property, and without the consent of the owner, shall for every such animal, whose brand or mark, shall have been so altered or defaced, be fined not exceeding two hundred dollars, and receive not more than one hundred lashes.

Altering or defacing marks or brands &c with out the consent of the owner, how punished.

Sec. 24. Be it further enacted. That if any person shall be convicted of having marked or branded, with his mark or brand, any unmarked or unbranded horse, mare, colt, mule, ass, cattle, hog, sheep or goat, not being his own property, and without the consent of the owner, the person so offending, shall pay a fine not exceeding one hundred dollars, and receive not more than fifty lashes.

Any person marking or branding any horse, mare, cattle, &c not being his property, how punished.

Sec. 25. Be it further enacted. That any person or persons who shall commit any fraud, in the packing or bailing of cotton, by placing good cotton on the outside of such bail, (commonly called plating) when the interior thereof is composed of inferior cotton, or by putting and mixing with the cotton contained in any bail, dirt, stones, or any other substance or material than ginned cotton, shall on conviction thereof be fined not exceeding five hundred dollars, for every such offence.

Fraud in packing or bailing cotton, how punished.

Sec. 26. Be it further enacted. That whosoever being married, shall, the first husband or wife (as the case may be) being alive, marry any person or persons, shall being thereof legally convicted, be fined not exceeding one thousand dollars; *Provided*, that nothing herein contained, shall extend to any person or persons,

Marrying, the first husband or wife being alive, how punished.

Proviso.

Where husband or wife remains 7 years beyond the seas or absent him or herself seven years, in any part of the U. States.

Proviso.

Where any person is divorced by lawful authority, or marry of within the age consent.

If the offender be a man, his first wife shall be endowed with one third part of his estate.

Wilfully burning any court house, prison, capitol of the Territory or public office, now punished.

whose husband or wife shall be continually remaining beyond the seas, for the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, for the space of seven years together, in any part within the United States of America or elsewhere, the one of them not knowing the other to be living within that time, and if the said offender be a woman, she shall, on conviction, forfeit her claim to dower of the estate of her first husband, and also her distributors share of his personal estate, which she would be entitled to, if he had died intestate and she had survived him: *Provided*, that nothing herein contained shall extend to any person or persons that shall be at the time of such marriage divorced by lawful authority, or to any person or persons, where the former marriage hath been, or hereafter shall be by lawful authority declared to be void and of no effect, nor to any person or persons for or by reason of any marriage had or made, or hereafter to be had or made, within the age of consent.

Sec. 27. *Be it further enacted*, That if such offender be a man, his first wife shall on his conviction, be forthwith endowed of one third part of his real estate, which she shall hold as tenant in dower the assignment of which shall be made as prescribed by law, and she shall also on his conviction, be forthwith entitled to one third part of his personal estate, in the same manner as if such offender had died intestate, and she had survived him.

Sec. 28. *Be it further enacted*, That if any person or persons shall wilfully burn any court house, or county or public prison, or the Capitol of this Territory, or any public office contained therein, or any public office in this Territory of any kind whatsoever, such person or persons his aiders and abettors, or either of them, being legally convicted, shall be fined not ex-

ceeding one thousand dollars, and stand in the pillory not less than one hour, nor more than four hours, and receive not more than one hundred lashes

Sec. 29. *Be it further enacted,* That all and every person or persons who shall unlawfully and corruptly, procure any witness or witnesses, by abettors, rewards or promises, or by any other means whatever, to commit any wilful and corrupt perjury, in any matter or cause whatsoever, now depending, or which may hereafter be depending, in any suit or variance by any writ, action, bill, complaint, or information in any wise touching or concerning any lands, tenements, hereditaments, or any goods, chattels, debts, or damages in any of the courts of this Territory, or shall unlawfully and corruptly procure, and subpoena any witness or witnesses who shall be sworn to perpetuate testimony, or who shall be sworn in any criminal prosecution, or in any examination or controversy, before a justice of the peace, or before any commissioners appointed to take depositions, or any other person authorised to administer an oath upon a question there legally depending before them, then, every such offender or offenders, shall for his, her, or their said offence, being thereof legally convicted, be punished by exposure on the pillory for two hours, a fine not exceeding one thousand dollars, and shall receive not more than fifty lashes.

Unlawfully and corruptly procuring witnesses by letters, rewards or promises to commit wilful and corrupt perjury, how punished.

Sec. 30. *Be it further enacted,* That if any person or persons either by subornation, unlawful procurement, sinister persuasion, or means of any other kind, or by their own act, consent or agreement, wilfully and corruptly commit any manner of wilful perjury, by his, or their deposition or testimony in any of the courts of this Territory, or before any justice of the peace, or before any commissioner appointed to take depositions, or before any person authorised to administer an oath

Perjury, how punished.

upon a question, then legally depending before them, or being examined to perpetuate testimony, every person or persons so offending, and being thereof legally convicted, shall be punished by standing in the pillory for two hours, and receive not exceeding fifty lashes, and also pay a fine not exceeding five hundred dollars.

Entering or breaking any house other than a dwelling house, with intent to steal, or stealing therefrom, how punished.

Sec. 31. *Be it further enacted*, That if any person shall be convicted of entering or breaking any house, other than a dwelling house or its appurtenances, with an intent to steal, or after entering or breaking said house, stealing therefrom any money, goods, chattels, wares, merchandize, or any other thing or things of value whatsoever, such offender shall be punished by a fine not exceeding five hundred dollars, and whipping not exceeding thirty-nine lashes.

Death caused in self defence or by misfortune, not punishable.

Sec. 32. *Be it further enacted*, That upon all indictments of or for the death of any person or persons, if it be found by a verdict of the jury, that the party indicted, killed the person or persons, for whose death, he, she or they is, are, or shall be indicted, in his, her or their own defence, or by misfortune, then and in every such case, the party so found by a verdict to have killed the person or persons, for whose death, he, she or they is, are, or shall be indicted, in his, her or their own defence, or by misfortune as aforesaid, shall be thereof, and for the same, fully acquitted and discharged.

Happening to kill any person, in arresting for treason or felony, or in the lawful defence

Sec. 33. *Be it further enacted*, That upon all indictments of or for the death of any person or persons, if it be found by verdict that the party indicted happened to kill the person or persons, for whose death, he, she or they, is, are, or shall be indicted, in attempting or endeavoring, by any lawful ways or means, to apprehend, take or arrest, the same person or persons, for any treason or felony, done or committed, or hereafter to be done and committed, or in the lawful de-

fence of his, her or their husband, wife, parent, child, master, mistress or servant, or in suppressing any riot, or in keeping and preserving the peace, or in lawfully chastising or correcting his, her, or their child or servant, then and in every such case, the party so found by verdict to have killed the person or persons, for whose death, he she or they is, are or shall be indicted, shall be thereof and for the same, fully acquitted and discharged.

of husband, wife
&c. or in lawfully
chastising a
child or servant,
not punishable.

Sec. 34. *Be it further enacted*, That any person or persons legally convicted of writing or publishing a libel, shall be fined not exceeding one thousand dollars.

Writing or publishing libel,
how punished.

Sec. 35. *Be it further enacted*, That in every prosecution for writing and publishing a libel, it shall be lawful for the defendant upon the trial, to give in evidence in his defence, the truth of the matter contained in the publication, charged as libellous.

Truth of the
matter evidence
in cases of libel.

Sec. 36. *Be it further enacted*, That no person shall be appointed to, or exercise the powers, or perform the duties, of any office of trust or profit in this Territory, who has been, or shall hereafter be convicted of bribery, perjury and forgery, and all laws and customs relating to, or in any manner respecting the benefit of clergy, are hereby abrogated, and made null and void.

Persons convicted of bribery,
perjury or forgery, to hold no
office of profit
or trust in the
territory.
Benefit of clergy
abrogated.

Sec. 37. *Be it further enacted*, That if any person or persons shall forge or counterfeit, or cause or procure to be counterfeited, or shall wilfully aid or assist in the forging or counterfeiting, any gold or silver coin, which now is, or hereafter may be passing, or in circulation in this Territory; or shall falsely alter, pay or offer, or tender in payment, any forged or counterfeited coin, knowing the same to be forged or counterfeited, every person so offending, and being thereof legally convicted, his aiders and abettors, shall be punished by standing in the pillory one hour for three successive days, and receive not exceeding fifty lashes.

Forging or counterfeiting gold
or silver coin—
paying or offering to pay in
such coin, how
punished.

Alter, forge or counterfeit letters patent, gift, grant, covenant, note of a bank, bill, order, cotton receipt, bill of exchange, deed &c. or offering such in pledge, exchange &c. how punished.

Sec. 38. *Be it further enacted,* That if any person or persons shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or shall wilfully aid or assist in the false making, altering, forging, or counterfeiting, any letters patent, gift, grant, covenant, bond, writing obligatory, note of a bank of any one of the United States, or of any bank established by law, in any one of the said States, or bank of any Territory of the United States, or any bill or order, cotton receipt, receipt for the payment of money or other article of value, promissary note, bill of exchange, or acceptance thereof, will, indenture or deed, or any instrument of writing whatever, to secure the payment or delivery of money, or other article of value, or in discharge of any debt, or demand, with intention to defraud any person or persons, or any corporation or body politic; or shall utter, put off or offer, or cause to be uttered, put off, or offered in payment, exchange, pledge, or for sale, any such false, forged, altered or counterfeited bond, writing obligatory, note of a bank of any one of the United States, or of any bank established by law in any one of the said States, or bank of any Territory of the United States, or any bill, or order, or acceptance of such bill or order, cotton receipt, or receipt for the payment of money, or other article of value, promissary note, bill of exchange or acceptance thereof, will, indenture or deed, or any instrument of writing or obligation whatever, to secure the payment or delivery of money or other article of value, or in discharge of any debt or demand, with intention to defraud any person or persons, corporation or body politic, knowing the same to be false, altered, forged or counterfeited, and shall be thereof convicted, every such person, their aiders and abettors, shall be punished by exposure upon a pillory for one hour, three successive days, whipping not ex-

ceeding one hundred lashes, and be fined not exceeding the sum of five hundred dollars.

Sec. 39. *Be it further enacted.* That if any person shall knowingly, maliciously or fraudulently, cut, fell, alter or remove, any certain boundary tree, or other allowed land mark, to the wrong of his neighbor or other person, he or she shall on conviction, be punished by a fine not exceeding five hundred dollars.

To cut, fell, alter or remove any boundary tree or land mark, how punished.

Sec. 40. *Be it further enacted.* That if any person or persons shall knowingly or wilfully obstruct, resist or oppose, any officer of this Territory, in serving or attempting to serve, or execute any mesne process or warrant, or any rule or order, of any of the courts of this Territory, or any other legal or judicial writ, or process whatsoever, or shall assault, beat or wound any officer or other person duly authorised, in serving or executing any writ or process whatsoever, every person so knowingly and wilfully offending, shall on conviction thereof, be punished by a fine not exceeding five hundred dollars.

Resisting or opposing any officer in serving or executing any mesne process, warrant &c. or assaulting or beating any officer, how punished.

Sec. 41. *Be it further enacted.* That if any person or persons shall, by force, set at liberty or rescue, any person or persons, who shall be found guilty of any capital offence, or rescue any person convicted of any capital crime, going to execution, or during execution, every person so offending, his aiders and abettors, being thereof duly convicted, shall pay a fine of one thousand dollars, and be imprisoned for the term of twelve months.

Set at liberty or rescue by force any person guilty of a capital offence, how punished.

Sec. 42. *Be it further enacted.* That if any person or persons, shall directly or indirectly, without the knowledge of the keeper, convey any instrument, tool, or other thing whatsoever, to any prisoner, or into any prison, whereby any prisoner might break the prison; every person so offending, and being thereof legally convicted, shall be punished by standing in the pillory

Conveying any tool or instrument to any prisoner, whereby he might break the prison, how punished.

two hours, and pay a fine not exceeding five hundred dollars.

Jailor or prison
keeper suffer-
ing any prison-
er to escape,
how punished.

Sec. 43. *Be it further enacted*, That if any jailor or prison keeper shall voluntarily suffer any prisoner, committed unto him, to escape, he shall suffer and undergo the like pains and punishments, as the prisoner so escaping, should or ought by law to have suffered, and undergone, for the crime or crimes wherewith he he stood charged, if he had been convicted thereof.

Shooting at and
wounding, cut-
ting or stabbing
or administer-
ing poison with-
out killing, how
punished.

Sec. 44. *Be it further enacted*, That if any person shall wilfully and maliciously shoot at, and wound, without killing any person, with a gun or other instrument, loaded with a leaden bullet or other hard substance, or shall wilfully and maliciously cut or stab any person with a sword, or other deadly weapon, with an intent to kill, if the person so stabbed, die not thereby, or shall wilfully and maliciously administer poison, if death do not ensue thereby, to any person, such offender, his aiders, abettors, and counsellors, upon being thereof legally convicted, shall be punished by whipping not exceeding fifty lashes, or by fine not exceeding three hundred dollars.

Making a hole
in any vessel in
distress, stealing
pump materials,
goods, chattels,
&c how punish-
ed.

Sec. 45. *Be it further enacted*, That if any person shall make, or assist in making, a hole in any vessel in distress, or stealing any pump materials, or shall steal from on board any vessel lying or being within the jurisdiction of this Territory any goods, chattels, or money, and such person being thereof duly convicted, shall be punished by whipping, not more than fifty stripes, and fined not exceeding two hundred dollars.

Setting fire to
any fence or en-
closure, how
punished.

Sec. 46. *Be it further enacted*, That if any person shall wilfully and maliciously set fire to any fence or fences, enclosure or enclosures, or cause and procure the same to be done, he or she shall, on conviction, be sentenced to a fine, not exceeding three hundred dol-

fars, and imprisonment for a term not exceeding four months.

Sec. 47. *Be it further enacted*, That if any person or persons shall unlawfully and maliciously break down, open, cut through, injure, or destroy any bridge, river, or meadow bank, rice dam, mill dam, or any other dams or banks, every such offender his aiders, abettors and counsellors, upon being thereof legally convicted, shall be punished by a fine, not exceeding one thousand dollars, or by whipping not exceeding fifty lashes.

Breaking or destroying any bridge, river, or meadow bank, rice or mill dam &c. how punished

Sec. 48. *Be it further enacted*, That if any person shall hunt by fire light in the night time, with a gun or other fire arms, and shall, while so hunting, kill any horse, cow, hog, or cattle of any kind, being the property of another, such offender, upon being duly convicted thereof, shall be fined double the amount of the value of the property so killed or injured.

Hunting by fire light in the night, and killing any horse, cow &c. the property of another—how punished.

Sec. 49. *Be it further enacted*, That the manner of inflicting the punishment of death shall be, by hanging the person convicted, by the neck until dead, and no offender shall be executed more than forty, nor less than twenty days after the passing of such sentence.

Manner of inflicting the punishment of death.

Sec. 50. *Be it further enacted*, That all fines and forfeitures, which may be recovered by virtue of this act, shall be collected and paid, by the sheriff or ministerial officer of the court where said offender may be tried, into the Territorial Treasury, and accounted for in the same manner, that public taxes are or may be accounted for; and whenever the court before whom any offender, or offenders may be tried and fined by a verdict of a jury, shall be of opinion that such offender is or are unable to pay the fine so inflicted, and that his or their imprisonment will operate to increase the public expenditure; the said court are hereby authorised and required to discharge him, her or them from custody.

Fines and forfeitures to be paid into the territorial treasury

Offenders unable to pay the fine, the Court authorised to discharge from custody.

Fine or punishment not to be greater than assessed by the jury.

Sec. 51. *Be it further enacted*, That in all prosecutions for offences of either a capitul or inferior nature, no person shall, on conviction, be fined in a greater sum, or undergo a greater punishment, than shall be assessed by the verdict of the jury trying such person or persons.

Lands, tenements, chattels &c. of a person convicted of a crime: subject in preference to all other demands except dower, first for expenses incurred by the Territory or county, and secondly to the party injured.

Sec. 52. *Be it further enacted*, That the lands, tenements, goods and chattels, of any person or persons, convicted of any crime or misdemeanor, shall be liable and subject, in preference to all other demands whatever, except dower and jointure; in the first place to the discharge of the expenses incurred by the Territory or County, in the prosecution and conviction of such offender; and in the next place to what reparation or restitution may be adjudged to the injured party; and if the estate of the persons shall be incompetent to the said purposes, then in that case, after deducting the expences of prosecution and conviction as aforesaid, the surplus if any, shall go towards making reparation to the party injured.

Every other felony not provided for, punished at the discretion of the Jury

Sec. 53. *Be it further enacted*, That every other felony whatever, not provided for by this or some other act of the Legislative Council, shall be punished by fine and imprisonment, or by stripes, at the discretion of a jury.

Persons indicted allowed peremptory challenge of the Jury.

Sec. 54 *Be it further enacted*, That all persons indicted for any of the offences mentioned in this act, shall be allowed peremptorily to challenge twenty of the jury, without assigning any reasons therefor, and as many more of the said jury as he can assign a sufficient cause.

Foreigners allowed a Jury de mediatate lingue.

Sec. 55. *Be it further enacted*, That any foreigner, not a citizen of the United States, indicted, under the provisions of this act, shall be allowed a jury *de mediatate lingue*, if he require the same.

Sec. 56. *And be it further enacted*, That the act to define crimes and misdemeanors, and to prescribe punishments for the same, passed December the 28th, 1824, be, and the same is hereby, repealed.

Act to define crimes and misdemeanors passed Dec. 28. 1824, repealed.

Passed 13th January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk*.

[*Approved, January 19th, 1827.*]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

Regulating and defining the duties of Constables.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That there shall be appointed by the County Courts a sufficient number of constables for each county in this Territory, and before they enter upon the duties of their office, they shall execute bond with two or more securities, to be approved of by the Judge of the County Court, and to be filed in the Clerk's office of the county where such constable may reside, in the penal sum of five hundred dollars, conditioned for the faithful discharge of the duties of his said office, which bond shall be payable to the Governor for the time being, and his successors in office, and the said bond shall not be void upon the payment of the penalty, but remain in full force, and the said constable and his securities shall be liable to any suit for neglect or malfeasance in office.

County courts to appoint constables, to give bond and security.

Sec. 2. *Be it further enacted*, That every constable, before he enters upon the duties of his office, shall in open court, or before some justice of the peace,

Oath to be taken by the constable.

make oath or affirmation, that he will support the constitution of the United States and the laws of the Territory, also that he will do right, as well to poor as to rich, in all things belonging to his office as constable, and he will do no wrong to any man for gift or reward, nor for favor or hatred, and that in all other cases he will truly and faithfully execute the duties of his said office, according to the best of his knowledge and power, so help him God.

Precepts directed to the constable.

Sec. 3. *Be it further enacted*, That no constable shall return, upon any precept to him directed, that the defendant is not found within his district, unless such constable shall have been actually at the place of residence of such defendant, and not finding him, shall have left a true copy of the precept, or unless such defendants place of residence is unknown to such constable, and no constable shall be compelled to receive a precept of any kind, against any defendant, who is known to be out of his district, (except it be for the Territory;) but if any constable shall voluntarily receive such precept, he shall be accountable for the same, in the same manner as if within his district.

Constable not returning warrant within 30 days.

Duty of the constable when any Justice shall vacate his office by death or otherwise.

Sec. 4. *Be it further enacted*, That when any warrant, attachment or subpœna shall be put into the hands of any constable, and such constable shall not return it to the justice of the peace who issued the same, or to some other magistrate of his county, (as the case may require) within thirty days from the day of issuing the same, such constable shall forfeit and pay to the party injured thereby, the sum of ten dollars, recoverable by motion before a magistrate, in the same manner that money may be recovered under this act, from a constable failing to pay money on execution. When any justice of the peace shall vacate his office by death or otherwise, it shall be the duty of the constable in whose hands any process of any nature whatever is issued, by such justice of the peace, may be, to return

the same to any other justice of the peace for his county, within the time prescribed by law, under the same penalties as for failing to return, as if no such vacation had taken place.

Sec. 5. *Be it further enacted*, That the County Court, a majority of all the members thereof being present shall have power, on complaint being made, to dismiss any constable from office, for failing to do his duty, or for malfeasance in office, having (on application of any person who may think himself injured) given ten days notice to such constable, to appear and make his defence. It shall nevertheless be the duty of such constable to return and account for all papers of every kind that he may have officially in his hands at the time of his dismissal, in the same manner as if he were in office, and the person who may apply to the court for the dismissal of any constable, shall pay all legal costs, in case he shall fail in his prosecution, either by discontinuance or judgment in favor of the constable, and if the constable be cast he shall pay the costs.

Power of the county courts to dismiss a constable.

Duty of the constable to return all papers

Sec. 6. *Be it further enacted*, That when the security or securities of any constable in this Territory may think himself or themselves liable to sustain any injury, loss or damage, in consequence of such securityship, the County Courts respectively, or the judge of the County Courts in vacation, on the motion of any such security, shall rule such constable to give counter security, ten days notice having been given in writing.

On motion by the security of a constable, court may order counter security.

Sec. 7. *Be it further enacted*, That if any constable shall fail to give such security, being ruled thereto by the court, or by the judge as aforesaid, the court shall forthwith dismiss such constable from office.

Constable failing to give security.

Sec. 8. *Be it further enacted*, That it shall be the duty of the constables respectively, to apprehend and bring to justice all felons and disturbers of the peace, and in all cases where the party arrested or apprehended by a constable, for a riot or breach of the peace,

Duty of the constable in apprehending felons &c.

and on trial shall be found guilty, the justice before whom such offender shall be tried, shall enter up judgment for the cost, and issue execution for the same immediately, and deliver it to the constable on which there shall be no replevin.

Security for the
forth coming of
property.

Notice between
the time of exe-
cuting and sel-
ling property.

Where proper-
ty to be sold.

Bond for the
delivery of pro-
perty, not com-
plied with.

Sec. 9. *Be it further enacted*, That when any property shall be taken by the constable by virtue of his office, he shall, on the person or persons from whom such property may be taken, giving bond with sufficient security for the forthcoming of such property on the day of sale, suffer the property to remain in the hands of the debtor, but when such person shall fail or refuse to give such security, and the property shall consist of live stock, the constable shall take care of the same, and allowance shall be made him out of the money arising from the sale of such property, to be judged of by the justice to whom the execution is returned.— There shall not be more than thirty days between the time of executing and selling any property, taken by virtue of an execution by a constable. Fifteen days previous notice shall be given of the time and place of sale, by advertising the property (specifying each article) at the most public place or places in the neighborhood, where the person from whom such property was taken resides, and the said property shall only be sold on the day the magistrate may hold courts, and at the place where such court is held.

Sec. 10. *Be it further enacted*, That where any bond shall be given for the delivery of property, and shall not be complied with at the day of sale, the constable shall return the bond to the justice who issued the execution ; if such justice be still in office, if not to the most convenient justice, and it shall be the duty of such justice to whom it is returned, on application of the plaintiff or his or her agent, to issue a new execution, including all costs, on which no security shall be taken.

Sec. 11. *Be it further enacted,* That constables shall, at or before the day of sale, suffer the debtor, his agent or attorney, to replevy the debt, interest and costs, for three months, by giving bond and sufficient security, payable to the party at whose suit the execution is issued. The condition of a replevin or forthcoming bond shall specify separately, the debt, interest and costs, and constables fees, and when execution shall issue thereon, the justice of the peace shall endorse "no security of any kind to be taken," and no execution put into the hands of a constable shall be made returnable in more than ninety, and less than thirty days.

Debtor may replevy the debt for three months

Condition of a forth coming bond.

Sec. 12. *Be it further enacted,* That no constable shall hereafter serve any warrant, or levy any execution or attachment, wherein he has had, or may have an interest in the debt or demand, whereon the same shall be founded, under the penalty of twenty dollars for every such offence, recoverable by motion against said constable.

Constable shall not serve any warrant wherein he has any interest in the debt etc.

Sec. 13. *Be it further enacted,* That the several constables in this Territory, shall have full power and authority to levy any execution or attachment, or to serve and execute warrants or other process, any where within the limits of his county; it shall not be lawful for any constable to bid at his own sale, when he is selling any property by virtue of an execution, and any constable so offending shall forfeit the sum of ten dollars for such offence committed.

Constables shall have power to levy execution etc. within the limits of his county.

Shall not bid at his own sale.

Sec. 14. *Be it further enacted,* That any constable receiving any writing obligatory, or account for collection, and who shall collect the same without execution, the same proceedings may be had against him and his securities, as could or might be had against such constable and his securities, for monies collected by him on execution.

Constable collecting without execution.

Constables failing to state in the body of a receipt, amount actually paid,

Sec. 15. *Be it further enacted*, That if any constable shall fail to state in the body of any receipt by him given to any defendant or defendants in an execution, the amount actually paid, he shall forfeit and pay to such defendant or defendants the sum of ten dollars, recoverable before any justice of the peace.

Constable collecting money and failing to pay the same over,

Sec. 16. *Be it further enacted*, That any constable collecting money by virtue of any execution or order of sale, issued from any justice of the peace of this Territory, and failing to pay the same over when called on, it shall be lawful for the party entitled to such money, to move against said constable and his securities, before the justice of the peace who rendered the judgment, and upon his absence resignation or removal from office, then the party aggrieved may move against said delinquent constable and his securities before some convenient Justice of the peace, by giving him and his securities, or either of them, ten days notice in writing, of the intended motion. and the said Justice of the peace shall enter up judgement for the amount thereof, together with ten per cent damages and costs, and issue execution therefor, which execution shall be acted on by some other constable of the county, and on such execution the justice of the peace shall endorse "no security of any kind to be taken," and the constable to whom such execution shall be given, shall proceed to collect the same from the former constable, his security or securities.

Constable failing or refusing to return the execution within 20 days,

Sec. 17. *Be it further enacted*, That whenever an execution is put into the hands of any constable in this Territory, and he fails or refuses to return the same within twenty days from the return day of said execution, he and his securities or any of them shall be liable for the amount thereof to the person in whose name the execution issued, with ten per cent damages thereon, to be recovered in like manner upon mo-

tion, as other moneys are recovered in the preceding section of this act.

Sec. 18. *Be it further enacted*, That every constable in this Territory shall hereafter give bond and sufficient security once in every two years, or forfeit his office. Constable to give security once every two years,

Sec. 19. *Be it further enacted*, That this act shall be in force from and after the first day of March next, and all acts or parts, inconsistent or repugnant to the provisions of this act, shall be, and the same are hereby repealed. Act when in force,

Passed January 16th 1827.

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE *Clerk.*

[Approved January 19th 1827.]
W. M. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

'To amend' an act to authorize the appointment of Justice of the Peace and defining their powers

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That hereafter, Justices of the Peace in the several Counties of this Territory, shall have exclusive original jurisdiction of all sums, not exceeding fifty dollars exclusive of costs and interests, founded on any speciality bill or note in writing or account. Jurisdiction of justices of the peace.

Sec. 2. *Be it further enacted*, That it shall not be lawful for a justice of the peace, to issue any warrant in any civil case, except on personal or written application of the plaintiff, his agent or attorney, to him, or the When justice shall issue warrant in civil cases,

filing with him the bond, note, or some other written speciality, as evidence of the debt.

Special bail
when to be or-
dered.

Sec. 3. *Be it further enacted*, That whenever any plaintiff, his agent or attorney, shall make oath or affirmation before said Justice, of the debt demanded, and that he verily believes that he will be in danger of losing the same or some part thereof, if the defendant or defendants, be not held to bail, it shall be his duty to issue his warrant, and endorse thereon that special bail is required, and the officer upon executing the same shall take bail indorsed upon the warrant, in the following words, to wit : I, A, B, do hereby agree to be special bail for the within named C D, witness my hand and seal this day of

and on the defendants failing or refusing to give such bail, the officer is hereby directed to commit him, her or them, to the jail of his county, until he, she or they shall give such bail, or be otherwise discharged by due course of law. And the officer for taking such bail shall be entitled to twenty five cents, to be taxed to the bill of costs.

Keep book of
record, not
serve on grand
or petit Juries,

Sec. 4. *Be it further enacted*, That the justice of the peace shall keep a book in which he shall record all his proceedings ; and all justices of the peace shall be exempted from serving on grand or petit juries.

Shall deliver
an attested co-
py of record
when required,

Sec. 5. *Be it further enacted*, That each justice, or other person who may have possession of their records, shall on application of any person, deliver to such person a fair copy, attested by him, of any record of the proceedings of such justice ; and for failing so to do, without reasonable excuse, shall forfeit to the party so applying, ten dollars, to be recovered by warrant.

When either
party shall re-
quire a Jury,

Sec. 6. *Be it further enacted*, That in all cases tried and determined before a justice, where the matter in controversy shall be above five dollars, if either party shall require a jury, the justice so trying the cause,

shall by warrant authorise the constable or other officer, to summon a jury, possessing the same qualifications as jurors in the Superior Courts, and subject to the same exceptions or challenges, to appear before said justice at the time and place in such warrant directed, and if a sufficient number of those summoned shall not appear, or any of those appearing shall be challenged and set aside, and the deficit shall be supplied from the bystanders, or such others as the officer can procure ; the justice of the peace shall proceed to charge said jury on oath, well and truly to try the cause submitted to them by the parties: and a true verdict to render according to the evidence ; and said justice shall preside over said trial, preserve order and decorum, and determine questions of law arising out of the cause submitted to him by either party ; and shall render judgment agreeable to the verdict, when returned to him by said jury.

Sec. 7. *Be it further enacted,* That said justice of the peace shall further have power to fine the constable or other officer, in any sum not exceeding five dollars, for failing to summon said jury agreeably to the warrant issued for that purpose ; and shall also impose a fine on delinquent or disorderly jurors, in any sum not exceeding five dollars, having previously summoned such offender to shew cause to the contrary.

Power to fine the constable or disorderly jurors.

Sec. 8. *Be it further enacted,* That it shall be the duty of the constable to endorse on the warrant, the day it was executed, the justice before whom it is to be tried, the place that the trial is to be at, and the day the trial is to be ; and no justice shall proceed to try any suit, except by consent of the parties, unless it shall appear by the return of the constable, that the summons had been executed a reasonable time before the day of trial : *Provided,* that such service shall be at least three days before the trial.

Constable shall endorse on the warrant the day it was executed before whom to be tried &c.

Summons when to be executed.

When the appellee resides out of the Territory.

Sec. 9. *Be it further enacted*, That where any appellee shall reside out of this Territory, so that a subpoena cannot be served upon him, it may be lawful for the appellant to proceed to advertise in some newspaper, authorised by law to publish advertisements, under the same rules and regulations as are directed in suits in chancery; which shall be equivalent to a service of the subpoena; and the court shall proceed to hear and determine the same, in the same manner as if the subpoena had been returned executed.

When the sum due shall be reduced by credits to a sum not exceeding fifty dollars.

Sec. 10. *Be it further enacted*, That in all cases where the sum due or secured by any instrument of writing, shall be reduced by credits endorsed thereon, to a sum not exceeding fifty dollars; in all such cases, justices of the peace shall have exclusive jurisdiction for the recovery of such balance.

Differences settled by arbitration.

Sec. 11. *Be it further enacted*, That in all cases of a trial before a magistrate, the parties litigant shall have the same right to settle their differences by arbitration, as is allowed by law in causes pending in any court of record of this Territory; and the award returned by the arbitrators shall be made the judgment of the justice, subject however to an appeal, under the same rules and regulations as other cases of appeal, from the judgment of a justice.

When a justice resigns or removes out of the county or district.

Sec. 12. *Be it further enacted*, That hereafter when any justice of the peace shall resign or remove out of the county or district, it shall be his express duty to return all the papers and his record book to the nearest magistrate in his district, or in the county; or in case of the death of such justice, the clerk of the county court shall demand and receive from the representatives of such justice, such papers and record book, to be by such clerk filed and preserved in his office.

Sec. 13. *Be it further enacted,* That whenever the office of a justice of the peace in any county within this Territory, shall have, or may hereafter become vacant by death, and the records and papers of such justice, whose office is so vacated, are lodged in the office of the clerk of such county court, it shall be the duty of such clerk to inform the judge of the county court thereof; and the said judge shall direct, that such papers and records shall be delivered to a justice of the peace for the county, most convenient to where the late justice resided

Office of a justice vacant by death, record & papers how disposed of.

Sec. 14. *Be it further enacted,* That it shall be the duty of the clerk of the county, within ten days after the order of the judge of the county court as aforesaid, to notify the justice of the same.

Duty of the clerk to notify the justice.

Sec. 15. *Be it further enacted,* That it shall be the duty of the justice, upon receiving such order, forthwith to apply to the clerk of such court for said records and papers; and the clerk shall deliver the same. And the justice into whose hands such records and papers are placed, under the provisions of this act, shall have the same power and authority to issue any process thereon, as his own records and papers, and the actings and doings of said justice on said records and papers so lodged with him, shall be as good and valid in law, as if done from his own records and papers.

Power of a Justice on receiving such records and papers.

Sec. 16. *Be it further enacted,* That when the office of any justice of the peace has, or shall hereafter become vacant, by resignation, removal, or the acceptance of an incompatible office, the person so making the vacancy, shall, within thirty days after such vacancy is occasioned, return his official papers and records to the nearest justice of the peace in the district or county in which he was commissioned a justice, under the penalty of one hundred dollars, to be recovered before any court having jurisdiction of the same, and

Justice of the peace resigning &c. to return his papers to the nearest justice.

When the office of justice is vacated by death, duty of administrators &c.

paid into the Territorial Treasury. And when the office of a justice of the peace has, or shall hereafter become vacant by death, his official papers and records shall be transmitted to the clerk's office by his executors or administrators, within two months after they obtain letters of administration. And if no executor or administrator be appointed, or qualified to act, the said papers and records shall be returned by the heirs of such deceased justice, who are above the age of twenty one years ; and by the guardian or guardians of such heirs, if under that age, under the pains and penalties prescribed in the foregoing part of this section, and to be recovered and applied in the same manner.

Justices in a new county established out of the county for which he was commissioned.

Sec. 17. *Be it further enacted*, That it shall be the duty of each justice of the peace, who may have been, or shall hereafter be commissioned for any county, and who may have been, or shall hereafter be included within the bounds of a new county, established in part or entirely, out of the county for which he was commissioned, to issue execution on all judgments rendered by him, previous to the establishment of a new county, at any time subsequent to the erection of such new county, and to do and perform every other legal act and thing necessary to carry such judgment into effect.

When the plaintiff or defendant may be required to answer on oath;

Sec. 18 *Be it further enacted*, That in trials in cases of debt or account, before a justice of the peace, where the amount does not exceed the sum of fifteen dollars, it shall be lawful for the plaintiff to require the defendant to answer on oath, whether the same is not due and owing by him : but if the defendant shall deny the same, the plaintiff shall not have judgment, unless he shall establish his claim by two or more credible witnesses, or by one credible witness with corroborating circumstances. And whenever the defendant shall allege matter in avoidance of the plaintiff's demand, he may in like manner, and subject to the like rules, re-

quire the plaintiff to answer such allegations on oath ; Justices may use attachment and on neglect or refusal to attend or answer, after summons, the justice may use attachment and other compulsory proceedings to bring the said party before him : *Provided*, that nothing in this section shall be construed to authorise either party to be sworn, unless thereto required by the adverse party.

Sec. 19. *Be it further enacted*, That all the judges of the county court and justices of the peace, be authorised, and they are hereby empowered, to solemnize the rites of matrimony.

Sec. 20. *Be it further enacted*, That where any person shall make application to a magistrate, and make oath or affirmation that he or she verily believes that the person of whom he complains is about to assault, beat or wound him, or other wise do him some great bodily harm, it shall be the duty of the said magistrate to issue his warrant, and cause the person against whom such complaint has been made, to be brought before him, and upon examination, he shall cause him or them to give bond with approved security, to keep the peace for twelve months ; and upon failure to give such bond when required, it shall be lawful to commit him, her or them to jail, until such bond shall be given. And when any bond, given as aforesaid, shall be forfeited, it shall be the duty of the justice to place the same in the hands of the attorney for the Territory, who shall proceed thereon in the same manner as upon other bonds forfeited

Judges and justices authorised to solemnise the rites of matrimony.

Warrant where a person makes oath that he believes the person of whom he complains intends to assault beat, &c.

Sec. 21. *Be it further enacted*, That where any person shall make application for a warrant, under the provisions of the former section of this act, or charging any person with the commission of any crime or misdemeanor, and the party shall fail to establish such charge, it shall be lawful for the magistrate to tax the party

Person making application for warrant and failing to establish the charge.

making such application, with all costs, and issue his execution therefor.

Act when in
force

Acts repealed.

Sec. 22. *And be it further enacted*, That this act shall be in force from the first day of March next, and sections four, five, seven, eight, nine, ten and eleven, of the act authorising the appointment of justices of the peace, and defining their powers, approved December 29th, 1824 ; and also so much of the third section as is inconsistent herewith, and all other acts or parts of acts repugnant to, and inconsistent with the provisions of this act, be, and the same are hereby, repealed.

Passed 19th January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

[Approved, January 29th, 1827.]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To organize and regulate the Militia.

Persons liable
to be enrolled
and to perform
militia duty.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That every able bodied free white male inhabitant of the Territory, between the ages of eighteen and forty five years, and who shall have resided in the same three weeks, shall be liable to be enrolled, and to perform Militia duty ; excepting nevertheless Judges of the District Courts and their Marshalls, Sheriffs, and clerks ; Postmasters and mail carriers, ferrymen, clergymen, physicians, teachers of public seminaries, and keepers of jails who in time of peace, are hereby exempted from the said duty.

Sec. 2. *Be it further enacted*, That the arms and accoutrements kept by the militia, and used for duty, shall be exempted from execution under civil process, and the officers, musicians, and privates shall be exempted from arrest, whilst in actual attendance on, and going to and returning from musters, courts martial, or other duty, except in cases of treason, felony or breach of the peace.

Arms and accoutrements exempt from execution.

Officers, musicians and privates, when exempt from arrest.

Sec. 3. *Be it further enacted*, That the Governor of this Territory, as commander in chief of the militia, shall be entitled to the following staff; viz: One Adjutant General, with the rank of Brigadier; who shall reside at or near the seat of Government, four aids, with the rank of Colonel; one quarter master general, with the rank of Colonel; who shall reside at or near the seat of government.

Governor's staff of whom to consist.

Sec. 4. *Be it further enacted*, That the militia shall be organized into two brigades, seven regiments, fourteen battallions, and into ten companies for each regiment, and shall be officered and regulated, as hereinafter provided for. The Brigades respectively shall be officered, by one general, one inspector, and one judge advocate, each with the rank of colonel, and each general shall be entitled to two aids, with the rank of Major. The first brigade shall comprise the militia west of the river Suwannee, and the second brigade, the militia east of that river. The regiments respectively shall be officered by one Colonel, one Lieutenant Colonel, and one Major, and the staff shall consist, of one adjutant, one quarter master, and one pay master, to rank as first Lieutenants, one surgeon, and one surgeons mate, one sergeant major, one drum major, one fife major, and one quarter master sergeant.

Militia how organized and officered.

First brigade west of the Suwannee and the second brigade east of that river.

Regiments how officered.

The muster ground shall be prescribed by the regimental commanding officer.

Muster ground

The first regiment shall comprise the militia of Escambia and Walton counties.

The second regiment shall comprise the militia of St. Johns, Musquito, and Monroe counties.

Regiments--of
what counties
they shall be
comprised.

The third regiment shall comprise the militia of the counties of Jackson and Washington.

The fourth regiment shall comprise the militia of Duval and Nassau counties.

The fifth regiment shall comprise the militia of the county of Gadsden.

The sixth regiment shall comprise the militia of Alachua county.

The seventh regiment shall comprise the militia of the county of Leon.

Companies how
officered.
Not to exceed
one hundred
privates.
Geographical
limits prescrib-
ed by comman-
ding officer
Company mus-
ter ground

The companies respectively shall be officered by one captain, one first lieutenant, one second lieutenant, one third lieutenant, one ensign, five sergeants, five corporals, and two musicians, and shall not exceed one hundred privates. The geographical limits of companies shall be prescribed by the regimental commanding officer, who shall also prescribe the rank of each company. The company muster ground shall be prescribed by the Captain.

Commissions e-
manate from the
Governor.
Appointments,
how made
Company offi-
cers elected by
the privates
Captains ap-
point non-com-
missioned offi-
cers

Sec. 5. *Be it further enacted*, That all commissions shall emanate from the Governor, on the appointments being made in the following manner, that is to say; staff and field officers shall be appointed by the Governor, by and with the advice and consent of the Legislative Council; and company officers shall be elected by the privates, a majority of whose votes shall be sufficient for this purpose. The Captains shall appoint their non-commissioned officers, who shall serve one year, or pay a fine not exceeding twenty dollars, at the discretion of a court martial.

Sec. 6. *Be it further enacted,* That the following rules shall govern the militia in time of peace.

1. Every commissioned officer before he enters on his duties shall take an oath to support the constitution of the United States, and faithfully and to the best of his abilities to execute the duties enjoined by his commission.

Oath to be taken by commissioned officers.

2. The drill and exercise prescribed by the laws of the United States for the army thereof, shall be adopted by the militia.

Drill.

3. The uniform of the officers shall be similar to that of the officers of the army of the United States.

Uniform.

4. In the equipment of the privates, a musket, rifle or shot gun shall be indispensable.

Equipment of the privates.

5. Brigade and Regimental musters are dispensed with, but battallion musters shall be held once a year, on the second Monday in January ; and company musters shall be held, not less than twice, nor more than four times a year, at the option of the Colonels respectively, who shall also designate the time for the companies respectively, for holding said musters ; and each muster shall be preceded by a personal notice, or a notice in writing, to be served on each man, at least ten days previously to the muster.

Brigade & musters dispensed with, battallion and company musters; when held.

Each muster to be preceded by notice.

6. At each muster the roll shall be called, and all defaulters reported to the commanding officer.

Defaulters to be reported.

7. Brigade orders shall be issued in writing by the Generals or their aids, and Regimental orders by the Colonels or Adjutants.

Brigade and regimental orders—how issued.

8. The returns of strength and equipment shall be made by the captains of companies respectively, on or before the tenth day of June in every year. These returns shall set forth the strength and equipment, in their actual condition, on the first day of the said month of June, and they shall set forth distinct columns, the Captain and number of Lieutenants, Ensigns, sergeants,

Returns of strength and equipment by the Captains—how, when, and to whom made.

Adjutant to transmit the return to the brigade inspector and he make a return to the adjutant general.

corporals, drummers, fifers, privates, swordsmen, muskets, rifles, bayonets, belts, cartridge boxes, flints, powder horns, cartridges, pounds of powder, balls, knapsacks, drums and fifes of their companies respectively ; and they shall transmit the said returns to the Adjutant, who shall, within ten days after the receipt of the same, consolidate the said returns into a regimental return, and shall transmit the same to the brigade inspector, who shall, within ten days after the receipt of the said returns, consolidate the same into a brigade return, and transmit the same to the adjutant general.

Substitutes when admitted.

9. On tours of duty, a private may be represented by an able bodied substitute, but on a general requisition, substitutes shall not be admitted, to the prejudice of the service.

When the militia shall aid the civil authority.

10. The militia shall aid the civil authority, on a requisition of a civil officer, specifying the object, and which shall seem reasonable to the commanding officer upon whom the requisition shall be made.

Breaches of order, subordination etc. by an officer, how tried.

11. Breaches of order, subordination or obedience to the militia laws, on muster or other duty, if made by an officer, he shall be immediately arrested by the commanding officer present, and by him reported to the brigadier general, whose duty it shall be to order a court martial for the trial of the accused ; and such court shall consist of a number of members, not less than five, nor more than thirteen officers. If such breach of order, subordination or obedience, shall be committed by a non-commissioned officer, musician or private, he shall be arrested in the same manner and tried by a court martial, which shall be composed of any three of the commissioned officers of the company to which the accused may belong ; such court shall be ordered by the captain, and its proceedings shall be by him approved or disapproved, at discretion.

By a non-commissioned officer or private how tried.

12. In the proceedings of courts martial, the voice of a majority of the members shall be necessary to substantiate a sentence of guilt; and in general or regimental courts martial, a notice of at least ten days shall be given in writing or printing to the accused, setting forth the specific accusation, and the names of the witnesses, if any are necessary.

In regimental courts martial, notice to be given to the accused.

13. Courts martial shall award a punishment according to their estimation of the criminality of the accused: *Provided*, that the offences aforesaid shall not be punished, if committed by an officer, by a higher fine than one hundred dollars, or cashiering; and if committed by a private, by a fine not exceeding ten dollars, at the discretion of the court.

Fine or punishment of an officer.

Fine of a private.

14. All military crimes not capital, and other offences and negligences, although not herein specifically mentioned, shall be cognizable, and tried by the courts martial herein provided for; and the forms of proceeding in said court, shall conform to the rules and articles of war, prescribing the forms in like cases, for the government of courts martial for the army of the United States.

All military crimes etc. not capital to be tried by courts marshal.

Forms & proceedings.

15. In courts martial the highest officer in rank shall preside: the youngest shall be the recorder in the absence of the Judge Advocate, and he shall certify the decision of the court, and shall cause the same to be transmitted through the officer ordering the court, to the commander in chief, if the same shall designate the punishment of cashiering: but if it shall designate the punishment of flogging, the certificate of decision shall be transmitted through the same officer, who, if he shall approve of the same, shall transmit it to the sheriff of the county, and it shall be the duty of the said sheriff to collect such fines, in the same manner as shall be prescribed by law for the collection of monies under civil process.

Organization of courts martial.

Decision of the court to whom sent.

Fines by whom collected.

Monies arising from fines and penalty—to whom paid and how appropriated.

16. Of the monies arising from fines, and penalties, the sheriff shall be authorised to retain ten per centum, for compensation for collecting the same, and the remainder of the said monies shall be accounted for, and paid by the sheriff to the colonel of the regiment, or officer ordering the court, whose duty it shall be to appropriate the same towards the purchase of musical instruments & colors for the use of the regiment or company.

Oath to be taken by the members of a court martial.

17. The presiding officer of a court martial shall be sworn by a member of the court "to form his opinion according to the best of his understanding, and to render his judgment without partiality favor or affection," and a similar oath shall be administered by the President to each of the other members.

Oath administered to witnesses.

The President or recorder, in swearing witnesses, shall swear them, "to speak the truth, the whole truth and nothing but the truth," and the President shall have power to issue summons, to compel the attendance of witnesses, and to serve such summons, by such persons as he may appoint and designate.

Commanding officers authorized to order out the militia to suppress insurrection or invasion.

18. If a sudden invasion or insurrection shall be made, or threatened to be made, on any portion of the Territory, the commanding officer of the militia or of any portion thereof, next adjacent thereto, shall be, and he is hereby authorised and enjoined, to order out the militia under his command, to repel or suppress the same; and the troops thus ordered into service, shall be subject to the rules and articles of war prescribed for the government of the United States troops.

Disorderly or riotous persons interrupting the operations of the militia, how punished.

Sec. 7. *Be it further enacted,* That if any person shall by disorderly or riotous conduct, interrupt the operations of the militia whilst on muster, courts martial, or on other duty, he or she so offending, shall be arrested by the commanding or presiding officer, and shall be fined in a sum not exceeding ten dollars, at the discretion of the officers so arresting.

Sec. 8. *Be it further enacted,* That volunteer or independent companies of cavalry, artillery, infantry or riflemen, may be formed upon the conditions, nevertheless hereinafter prescribed. The members of a company so forming shall subscribe certain rules and regulations for the government of the same, which shall be submitted for the inspection of the Colonel of the Regiment, and if approved of by him, such company may be formed. Volunteer companies may wear such arms and uniform as the officers thereof, with the approbation of the company, may direct. They may muster at discretion, but shall adhere to the musters provided for by law. The members thereof shall be exempted from duty in other companies, but shall not otherwise be exempted from the operation of the militia laws, and no person who shall be a member of a volunteer company, shall join any other company, so long as he shall reside within the bounds of the Regiment, unless after six months notice to the commanding officer of such company, of his intention to withdraw; and no person shall enrol himself in a volunteer company beyond the bounds of the regiment to which he belongs.

Volunteer companies how formed.

Choose their own uniform:

Shall adhere to the musters provided for by law.

Six months notice to withdraw.

Sec. 9. *Be it further enacted,* That company musters shall be held on the third Monday in February next, preparatory to which, each Colonel of a regiment, or in case of his absence or inability, the next officer in command shall, at least ten days previously to the said muster day, assign the limits of each company and the muster ground for the same, and the said Colonels respectively, or the next officer in command, shall brevete such company officers and subalterns, as shall be necessary to give notice of, and effect to the said muster: they shall issue orders for the election of company officers, to be held on the said muster day, and such other orders as shall be necessary to give effect to the

Day of muster, and notice,

Election of company officers,

provisions of this act ; and when the election of company officers shall have taken place, the said Colonels of Regiments shall forthwith transmit a return of their names to the Governor, whose duty it shall be to issue commissions thereon ; and the company officers so elected, shall do the duties of their respective offices, until their commissions shall be received.

Colonel or next officer in command failing to perform duties enjoined,

Company or brevet officer failing or refusing etc.

When commissions shall expire & be made

Act to be in force from the 1st day of Feb.

Sec. 10. *Be it further enacted*, That if any Colonel of a Regiment, or the next officer in command, shall fail or refuse to perform any of the duties enjoined by the foregoing section of this act, or to order the court martial hereinafter provided for, such officer shall forthwith be cashiered : and if any person being a company officer, or brevetted as aforesaid, shall fail or refuse to obey the orders he may receive, in virtue of the said foregoing section ; such person shall be fined in a sum not exceeding fifty dollars, at the discretion of a court martial, which the colonels of regiments respectively, or the officers ordering the said muster, are hereby directed to order for the trial of all delinquents ; and the said court martial shall be held within ten days after the said muster day.

Sec. 11. *Be it further enacted*, That on the twentieth day of this current month of January, all militia commissions shall expire and be void : and that all appointments to fill the vacancies shall be made on or before the said day.

Sec. 12. *Be it further enacted*, That from and after the first day of February next, this act shall be in full force and effect ; and that an act, entitled an act organizing the militia of the Territory, approved the 13th September 1822 ; and an act, entitled an act, to amend an act, entitled an act, organizing the militia of the Territory, approved the 3d July 1823 ; and an act, entitled an act, more effectually to provide for the organization of the militia, approved the 1st January

1825 ; and an act, entitled an act, in addition to the several acts organizing the militia of the Territory of Florida. approved the 30th December 1824 ; and an act, entitled an act, to amend an act, more effectually to provide for the organization of the militia, approved 9th December 1825, be and the same are hereby repealed. Acts repealed.

Passed January 15th 1827.

H. D. STONE,
President of the Legislative council.
GEORGE E. TINGLE *Clerk.*
[Approved January 18th 1827.]
W. M. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To amend an act, entitled an act to regulate the mode of proceeding on attachment.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That after any complaint be made upon oath before any judge or justice of the peace, by any person or persons. his, her or their agent, attorney or factor, that any person hath removed, or is removing him or herself out of the territory privately, or so absconds or conceals him or herself, that the ordinary process of law cannot be served on such debtor ; and if such plaintiff. his or her agent, attorney or factor, shall swear to the amount of his or her debt or demand, to the best of his or her knowledge and belief, after deducting all effects and discounts due to the defendant, and shall produce a regular statement of his account current or demand, and swear to the same, it Attachment when granted.

shall be lawful for such judge or justice to grant an attachment.

Party requiring attachment to give bond and security.

From the bond.

Sec. 2. *Be it further enacted*, That before the attachment shall be issued by the judge or justice, he shall require the party making the application therefor, to enter into bond with approved security, in at least double the amount, which bond shall be in the following form, to wit : Know all men by these presents, that we, A. B. & C. D. are held and firmly bound unto E. F. in the penal sum of _____ dollars, lawful money of the United States of America, to which payment, well and truly to be made, we jointly and severally bind ourselves and our heirs, executors and administrators. In witness whereof, we have hereunto subscribed our names and affixed our seals, this _____ day of _____ in the year of _____ Whereas

the said A. B. hath sued out, or is about to sue out from (here insert the court from which the writ issues) a writ of attachment against the goods and chattels, lands and tenements of the said E. F. ; now the condition of the above obligation is such, that if said A. B. shall well and truly prosecute said writ of attachment to judgement, or pay to said E. F. all costs and damages he may sustain in consequence of the levying said attachment ; then this obligation to be null and void, else to remain in full force and virtue ; and every attachment issued without bond and affidavit made as aforesaid, is hereby declared illegal and void, and shall be dismissed.

Executors and administrators out of the Territory.

Sec. 3. *Be it further enacted*, That where administrators and executors reside, or have removed beyond the limits of this Territory, and there are assets or other property of the testator or intestate in the same, it may be lawful for any person having claims on the estate of the deceased, to take out an attachment for the

same, agreeably to the provisions of the acts now in force, regulating attachments.

Sec. 4. *Be it further enacted*, That executors and administrators, whose letters of administration were granted in any state or territory within the United States, and who have claims and demands as such, as against persons residing in the Territory of Florida, where such claims and demands originated in the jurisdiction of the State or Territory where such letters of administration were granted, may and are hereby authorised to sue out attachments agreeably to the provisions of the acts now in force, regulating attachments, the same as if their letters of administration had been granted in the Territory of Florida. A certified copy of such letters of administration, under the seal of the court, where the same were granted, shall be received as evidence in such case.

Letters of administration granted in any state or Territory.

Sec. 5. *Be it further enacted*, That when the amount of the debt, claim or demand, shall not exceed the sum of fifty dollars, the said writ of attachment shall be made returnable to a justice of the peace, and the said writ may be served by a constable, and the proceedings shall be the same as in other suits before magistrates, and appeals may be had thereon; and where the sum shall exceed fifty dollars, the attachment shall be returned to the County or Superior Court, at the option of the parties, and the process in such case shall be served by the sheriff.

Writs of attachment under fifty dollars returnable to a magistrate.

Over fifty dollars returnable to County or superior court.

Sec. 6. *Be it further enacted*, That the first, second, third, fifth and eleventh sections of the law regulating the mode of proceeding on attachment, approved De-

Acts repealed.

December 28th 1824, be, and the same are hereby, re-
pealed.

Passed, January 19th, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk.*

[Approved, January 20th, 1827.]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

An act relative to certain instruments of writing being read as evidence.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That copies of any of the printed laws of any State or Territory of the United States, which shall be printed under the authority of said State or Territory, shall be admitted and received as evidence of such law, in any of the courts of this Territory, or before any judicial officer of the same.

Sec. 2. *Be it further enacted,* That all transcripts from the books and records of the Treasurer's office, properly certified by said Treasurer, shall be good and admissible evidence in all courts of justice, and other judicial proceedings in this Territory, of the facts contained in said transcript.

Sec. 3. *Be it further enacted,* That if any person who may be a resident of a foreign country, beyond the jurisdiction of the United States, shall make oath to any bill, petition or answer in chancery, before some authorised notary public, who shall certify the same, and affix his seal of office thereto, and obtain the certificate and seal of the consul or commercial agent

Copies of printed laws etc.—
evidence.

Transcripts
from the books
& records of the
Treasurer—
evidence.

Resident of a
foreign country,
evidence how
certified etc.

or such person as may be exercising the powers, either of consul or commercial agent at said place, that the person signing himself as notary public, has been duly appointed, and full faith and credit are to be given to all his acts; the said bill, petition or answer in chancery shall be used in any court of law or equity, in the same manner as though the same had been sworn to before some proper officer within the limits of the Territory.

Sec. 4. *Be it further enacted*, That the deposition, either at common law or in chancery, of any person residing as aforesaid beyond the jurisdiction of the United States, taken before a notary public, and certified in the manner as prescribed by this act, shall be read as evidence in any suit depending in this Territory: *Provided*, legal notice has been given to the opposite party, of the time and place of taking such deposition.

Notice of the time and place of taking depositions to be given to the opposite party,

Passed, January 4th, 1827.

H. D. STONE,
President of the Legislative Council,
GEORGE E. TINGLE, Clerk.

Approved, January 12, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To provide for the appointment of Auctioneers and define their duties.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, that there shall be appointed and commissioned by the Governor and Legislative Council of this Territory, in each and every County within this Territory, a suitable number of fit and dis-

Auctioneers to be appointed to act at all public sales, except only by virtue

Of an execution
or decree of
chancery,

creet persons to act as auctioneers, at all public sales at auction, except sales under and by virtue of any executions at common law, or decree in chancery.

Auctioneer to
give bond and
security,

Sec. 2. *Be it further enacted*, That every auctioneer shall, before he enters upon the duties of his office, execute bond, payable to the Governor, with two or more good and sufficient securities, to be approved by the judge of the county court of the county in which said auctioneer may reside, in such sum as said judge may consider necessary, conditioned to discharge the duties of his said office, and to pay over all monies due the Territory, arising from auction duties, or in any other manner according to the provisions of this act, and said bond shall not be void on the first recovery, but may be put in suit by motion in any court having competent jurisdiction of the same, against said auctioneer and his securities, from time to time, until the whole of the penalty thereof be collected.

Duty of the
auctioneer,

Sec. 3. *Be it further enacted*, That it shall be the duty of the several auctioneers within this Territory, to keep an exact account of the amount of property by them sold, at what time, and at what place, and for whom, and together with a transcript of their account of sales, shall quarterly make a return of the same, sworn to and certified by some judge or magistrate, residing within this Territory, to the clerk of the county court, to be deposited in the office: *Provided*, the amount of his sales shall exceed the sum of five hundred dollars; if less, then he shall make a return of the same every six months, according to the provisions of this act.

Returns data re-
ceiver of tax re-
turns,

Sec. 4. *Be it further enacted*, That these returns shall in all cases be data for the receiver of tax returns, so far as the same may to him appear satisfactory.

Penalty for a
violation of this
act

Sec. 5. *Be it further enacted*, That any person or persons who shall offer any property at public auction, contrary to the provisions of this act, shall pay, on due

conviction thereof, before any court having jurisdiction of the same, a fine for each and every offence, not exceeding one hundred dollars at the discretion of the court.

Sec. 6. *Be it further enacted*, That the auctioneer or auctioneers, who may be appointed under the provisions of this act, to reside at the island of Key West, or in Monroe County, shall, before he or they enter upon the duties of his office, execute bond with security to be approved of by the Governor, in at least the sum of ten thousand dollars, which bond shall be made payable to the Governor for the time being, and his successor in office.

Auctioneer at Key West or in Monroe county to give bond & security in the sum of 10 thousand dollars.

Passed, January 19, 1827:

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, Clerk.

Approved, January 20, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To establish certain ferries in the counties of Walton, Washington and Gadsden.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the right of establishing and keeping ferries be, and the same is hereby vested in the persons, and limited to the places herein-after provided for; that is to say, Finlay McKaskill, to keep a ferry across yellow water river, at the place where the black water road intersects the said river, in Walton county. Jacob Pittman to keep a ferry across the east branch of yellow water river, at or near

Ferry across yellow water river,

East branch of yellow water river,

Choctawhatchie at Bunkers landing,

Holmes creek,

Holmes creek at Brights landing-
Bridge across little river.
Ferry across little river.

Ferries and bridge to be kept in good repair,

To be regulated by the county courts,

Enjoy said right for 6 years,

Ferrying &c. within 2 miles of said ferries, penalty for,

the place where the yellow water road intersects the said branch in Walton county. William Miller, to keep a ferry across Choctawhatchie river at Bunker's landing, on the boundary line of Walton County And the said William Miller to keep another ferry across Holmes' creek, at the place where the road intersects said creek near Bunker's landing, in Washington County. Jonathan Bunker to keep a ferry across Holmes' creek, at James Brights landing on said creek in Washington. Sharod McKall to build a bridge and keep the same or a ferry, across little river, at the place where the highway constructed, by the United States, intersects said river, in Gadsden county.— And David Wormack and John Rodgers, to keep a ferry across little river, at the place where Parhanas trail intersects the said river, in Gadsden county.

Sec. 2. *Be it further enacted*, That the said named persons be, and they are hereby, severally charged with the duty of keeping their said respective ferries and bridge, at all times, in good repair, and in condition to put over a loaded wagon without hindrance, and the said recited keepers of ferries shall severally be subject to such rules and regulations as now are, or may hereafter be established by the county courts of the counties respectively, referred to in the designation hereinbefore made, as to the location of said ferries, and to such other regulations as now are, or hereafter may be established by law.

Sec. 3. *Be it further enacted*, That the said recited keepers of ferries shall continue in the enjoyment of the said rights, for the period of six years, and that if any person shall within two miles of either of the said ferries, ferry across the said waters any waggon, team, or any person or thing, or shall receive pay therefor, he or they so offending, shall forfeit and pay to the person having the right to such ferry, under the provi-

sions of this act, the sum of ten dollars, to be recovered before a magistrate.

Passed January 8th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE *Clerk.*

[*Approved January 18th 1827.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To regulate our citizens trading with the Indians, and for other purposes therein mentioned

WHEREAS, the safety, welfare and tranquility of the Territory of Florida, do in a great measure depend on the maintaining a good correspondence between the citizens of this Territory and the Indians in amity with the good people of the same, and whereas many inconveniences have arisen from private persons trading with them without licenses.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That for the better preventing disturbances among the Indians, by persons bartering with them in the woods or hunting within their limits, or in any otherwise trespassing on the same, that from and after the first day of March next, it shall not be lawful for any person or persons to sell, truck, barter or exchange with any indian or indians, any rum or other strong liquors, clothing, arms, ammunition, or any thing whatsoever, in the woods in their hunting ground, or within our settlements, or at any other place other than at stores or houses licensed for that purpose, or shall hunt or trespass on the lands beyond the

Penalty for trading with Indians in any place other than houses licensed for that purpose.

present boundary line. And every one so offending as aforesaid, shall forfeit and pay, upon legal conviction, before any court of this territory, having jurisdiction of the same, the sum of five hundred dollars, or the lawful money, one half thereof to be paid to him, her or them, who shall sue for and prosecute such offenders to conviction, and the other half for the use of the territory; and if such offenders shall not have sufficient effects whereon to levy such fine, then in every such case, the offender shall suffer corporal punishment by whipping, not exceeding thirty nine lashes on the bare back, to be inflicted by order of the judge of the court in which such offender shall have been convicted, and the justices of the peace upon complaint made of any such offence, are hereby authorised and required to bind over the offender by recognizance, with sufficient sureties, for his appearance at the next court having jurisdiction of the same, to answer such action or information as shall then be brought or exhibited against him, her or them, pursuant to this act, and for want of sureties, to commit such offenders to the common jail.

Duty of Justice
on complaint
being made,

Sec. 2. *Be it further enacted*, That from and after the first day of March next, if any person or persons whatsoever, (other than such as duly take out license or licenses, from the proper authority,) shall directly or indirectly trade or traffic with any indian or indians, except for the necessary supply of provisions, in their passing or repassing to and from the nation, or shall presume to erect or set up any houses or huts on the lands reserved for the indians, shall be proceeded against as before directed.

Except for ne-
cessary supplies
in passing and
repassing.

Sec. 3. *And be it further enacted*. That all and every person or persons, whites, half breeds, Indians, mulattoes or mustigoes, who shall inveigle, steal, or carry away, any negro or other slave or slaves, or shall hire, aid, or counsel any person or persons to inveigle, steal

or carry away as aforesaid, any such slave or slaves, or that shall aid any such slave or slaves in running away or departing from his owner or employers, service, or shall give a ticket or pass whereby such slave shall depart from the service of his or her said owner, manager, or employer, shall be, and he and they are hereby declared guilty of felony; and being thereof convicted, shall suffer death, and be executed as felons, and that so much of the laws now in force as militate with, or contradict this law, shall be, and the same are hereby repealed.

Penalty for stealing, carrying away, or giving a pass to a negro or other slave.

Passed, January 10, 1827.

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, Clerk.

Approved, January 17, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To prevent the future Migration of Free Negroes or Mulattoes to this Territory.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the first day of March next, it shall not be lawful for any free negro or mulatto, to migrate or be brought into this Territory from any state or territory, within the United States or elsewhere; And if any free negro or mulatto shall migrate, or be transported, or brought into this territory, and remain herein for the term of thirty days, he, or she shall be liable to be arrested, and any citizen of this Territory, having knowledge that any such free negro or mulatto is within

Unlawful for free negroes or mulattoes to migrate or be brought into the territory.

Any citizen may arrest such free negro or mulatto & bring before some justice of the peace,

any county of this territory, contrary to this act, shall or may arrest the said free negro or mulatto, and bring him or her before some justice of the peace, or mayor of the city, to be dealt with agreeable to law, or he may apply to a justice of the peace or mayor of the city, who upon information of the same is required to issue his warrant, to cause the said free negro, or mulatto to be brought before him or some other justice, to be dealt with agreeably to law, directed to the sheriff or constable, or such other person as he may choose to designate, whose duty it shall be to execute the said warrant, and bring the said free negro or mulatto before the said justice or some other of said county.

Mayor or justice to require free negroes or mulattos to enter into recognizance to appear at court.

Sec. 2. *Be it further enacted*, That if the justice of the peace or mayor of the city, before whom any free negro or mulatto, as aforesaid, shall be brought as aforesaid, upon examination of the said free negro or mulatto, or other testimony, shall be of opinion that the said free negro or mulatto has migrated, or been transported, or brought into this Territory, and continued therein in contravention of this act, it shall be the duty of said mayor or justice to require the said free negro or mulatto to enter into a recognizance with one or more good securities, in the sum of two hundred dollars, payable to the Governor for the time being, and his successors, conditioned for the personal appearance of the said free negro or mulatto at the next county court, to be held for this county, and that he or she will abide by, and perform the order made therein by the said county court; on failure to give or enter into said recognizance, the said magistrate or mayor shall commit the said free negro or mulatto to jail, there to remain, until legally discharged by a court having jurisdiction of the case.

On failure to give recognizance to commit to jail.

Sec. 3 *Be it further enacted*, That if the court, before whom any such free negro or mulatto shall be

brought as aforesaid, shall after trial, be satisfied that the said free negro or mulatto has migrated, or been brought into this territory, and continued herein contrary to this act, they shall direct the said free negro or mulatto to enter into a recognizance, with one or more good sureties in the sum of five hundred dollars, payable as aforesaid, conditioned that the said free negro or mulatto will depart, and remove without the limits of this Territory, within ten days from the date, and never more return within the limits of the same, or the court may, at their discretion, take the bond of the said free negro or mulatto, without security, for the performance of the condition as aforesaid: and upon failure or refusal to give such recognizance, the court shall make an order, to be executed by the sheriff, or the ministerial officer of the court making such order, for the immediate sale of the said free negro or mulatto, for the term of one year, to the highest bidder, and the sheriff shall proceed to sell the said free negro or mulatto, at one years credit, taking bond and security, for the payment of the same to the judge of the county court, and in cases where the said bond shall not be complied with, or either of the recognizances aforesaid be forfeited, suits shall be brought thereon, and recoveries had, in any of the courts of this territory having jurisdiction of the same. And all monies so recovered shall be, one half to the person prosecuting, the other half, deducting expenses of prosecution, to be paid into the county treasury.

Sec. 4. *Be it further enacted*, That the same proceedings may be had against any such free negro or mulatto, as often as he, she or they shall be found within any county of this Territory, after the expiration of the time assigned by the court for his or her departure out of this Territory.

Sec. 5. *Be it further enacted*, That the provisions

After trial the court shall require recognizance that the free negro or mulatto remove without the limits of the territory within ten days from the date.

Bond of the free negro or mulatto taken without security, at the discretion of the court. Failure to give recognizance—court shall order a sale of such free negro or mulatto for one year.

Monies recovered, how disposed of.

Negroes or mulattoes remaining in the Territory after the time assigned by the court.

Act not to extend to free negroes or mulattoes engaged on board ships or vessels.

of this act shall not be considered as extending to free negroes or mulattoes, who may be actually engaged under any contract of service on board of any ship or vessel, which may be within any of the waters of this Territory, so long as the said free negro or mulatto shall remain in the actual employ, and on board said ship or vessel.

Passed December 30th 1826.

H. D. STONE,
President of the Legislative council.

GEORGE E. TINGLE *Clerk.*

[Approved January 3d 1827.]

WM. P. DUVAL,
Governor of the Territory of Florida

AN ACT

To exempt certain property from execution or distress in this Territory.

Property exempt from execution &c.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all actual bona fide housekeepers with a family, shall have exempt from execution or attachment of his or her goods and chattels, to the amount of one hundred dollars, exclusive of the wearing apparel of the family, of such articles as he or she may select, to be appraised by three disinterested householders, summoned by the officer holding the process.

Implements, books &c. of professional men & mechanics exempt.

Sec. 2. And be it further enacted, That all professional men and mechanics shall have exempt from execution or attachment, all their implements, books and tools of their trade or profession: this act to take effect from

and after the first day of February, eighteen hundred and twenty-seven

Passed, January 20th, 1827.

H. D. STONE,
President of the Legislative Council
GEORGE E. TINGLE, Clerk.

Approved, January 20, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

For the relief of John W. Levinus.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That John W. Levinus be, and he is hereby authorised to receive the sum of one thousand and nine dollars, in addition to the sum of eight thousand dollars, covenanted to be paid to him by the commissioners for the sale of the lots in Tallahassee. And that the said sum of one thousand and nine dollars be paid by the said commissioners, from the funds arising from the sale of said lots, and in the terms prescribed by the contract between said Levinus and the commissioners, for the payment of the said eight thousand dollars.

J. W. Levinus
authorized to
receive one
thousand and
nine dollars.

To be paid by
the commissioners.

Passed, January 10th, 1827.

H. D. STONE,
President of the Legislative Council,
GEORGE E. TINGLE, Clerk.

[Approved, January 18th, 1827.]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Dividing the Territory of Florida into thirteen election Districts and providing for the election of members of the Legislative Council.

WHEREAS, by an act of Congress, approved the fifteenth day of May, 1826, it becomes necessary to prescribe the mode of electing thirteen persons to compose the Legislative Council.

Be it therefore enacted by the Governor and Legislative Council of the Territory of Florida, That the Territory be, and is hereby divided into thirteen election districts numbered and bounded as hereinafter prescribed, that is to say :

The first district shall comprise all the city of Pensacola, and county of Escambia, west of Palafox street Pensacola, and the road thence by Emanuels, to Claiborne, Alabama.

election dis-
tricts

The second district : all the city of Pensacola and county of Escambia, lying East of Palafox street. Pensacola, and the road thence by Emanuels, to Claiborne Alabama, together with the island and sound of Santa Rosa.

The third district, the boundary lines of Washington and Walton counties.

The fourth district, commencing on the western bank of the Chipola, at its intersection with the Alabama line ; thence down the Chipola to the mouth of Russ mill creek ; thence up said creek to its head ; and thence to the corner of Jackson county, at or near Oaky hill ; and north and west with the above recited line in Jackson county.

The fifth district : all Jackson county not embraced by the limits of the fourth district

The sixth district : the boundary lines of Gadsden county.

The seventh district: the boundary lines of Leon county.

The eighth district: the boundary lines of Alachua county.

The ninth district: the boundary lines of Nassau county.

The tenth district: all the county of Duval north and west of the St. Johns river.

The eleventh district: all the county south and east of St. Johns river, within the boundaries of Duval and St. Johns counties, and north of the road thence to Buenavista.

The twelfth district: the city of St. Augustine, and all the county lying between the road from said city to Buenavista, and the southern boundary of St. Johns county.

The thirteenth district, the boundary lines of Musquito and Monroe counties.

Sec. 2. *Be it further enacted*, That each of the said districts shall be entitled to one member of the said Council, who shall possess all the qualifications herein-after prescribed for a voter; and no person shall be eligible, who shall not have resided in the district for which he shall be a candidate, at least six months previously to the day of election; nor shall any person be eligible to said office who shall be district attorney, marshal, or sheriff, or shall hold any office by virtue of a commission from the United States, except a Postmaster; and every vote given to any person holding any of the said offices, or being under any of the disabilities herein mentioned, shall be considered absolutely void and of no effect.

Each district
entitled to one
member

Qualifications of
a member of the
council
Persons not eli-
gible

Sec. 3. *Be it further enacted*, That the county courts within the said districts respectively be, and they are hereby empowered and directed, at least thirty days before the day of election, to appoint such places for

County courts
to appoint the
places & Judges
of election
Notice to be
given to the
Judges and to
the public.

holding the same, as the said courts may judge best suited to the convenience of the citizens ; and for each place so appointed, they shall designate three judges of election, any two of whom may be competent to discharge the duties ; and in case either of the county courts shall fail to appoint or designate the said places or judges, it shall be the duty of the clerk of such court to make such appointments, and designation, at least twenty five days before the day of election ; and in either case, due notice thereof shall be given to the said judges of election, and to the public at large.

Judges of election
to appoint a
clerk.

Sec. 4. *Be it further enacted*, That it shall be the duty of said judges of election, to appoint a clerk for their respective polls, and before the said judges and clerk enter upon their duties, they shall severally make oath or affirmation before some justice of the peace, well and truly to perform the duties of their office according to law, without favour or affection ; and in case no justice of the peace shall be present, it shall be lawful, and the said judges are hereby authorised, to administer the oath to each other, and to the clerk.

Manner of conducting the election

Sec. 5. *Be it further enacted*, That in conducting the election the said judges and clerk shall be governed by the following rules. They shall open the polls at nine o'clock in the morning, and at the place appointed for the same ; and they shall keep the polls open until six in the evening, unless by consent of parties, they be sooner closed. They shall take the votes by ballot, and from such persons and none others as are duly qualified to vote ; and when objections shall be made to a person offering to vote, and in all cases where the qualifications of the persons offering to vote are unknown, the said judges may examine such person on oath or affirmation, touching the same ; and should the person examined refuse to answer the interrogatories put to him, the said judge may refuse to

Voter may be
examined on
oath

ceive the vote of the person so refusing.

Sec. 6. *Be it further enacted*, That when there shall be put in the box two or more ballots, folded as one, they shall be destroyed, and not counted; and when any ballot shall contain the name of more than one candidate, it shall also be destroyed, and not counted.

Two or more ballots folded as one, or containing the name of more than one candidate.

Sec. 7. *Be it further enacted*, That the said judges of election shall cause to be written down, the name of every person voting and a list of the names to be kept; and after closing the polls, they shall cause a copy of said list of voters to be posted up at the place of election, for public inspection. And the said judges shall, within ten days after the election, cause to be made out, a return of the same, and to seal up and transmit the same return to the Governor. And in the said return shall be transcribed a list of the names of all the voters, and also a list of the names of all the candidates voted for, and there shall also be contained in the said return, a certificate in the following form "We the subscribers, judges of election for the

Names of the voters to be kept.

Return to be made to the Governor.

District for a member of the Legislative Council, do hereby certify that at the said election, held at _____ in the said district, there were _____ voters, a list of whose names is hereunto annexed, and that there were _____ Candidates voted for, and that of the said votes there were given for A. B, the number of _____ votes, and for C. D, the number of _____ votes

Certificate of return.

Signed, _____ E. F.

G. H.

Judges of Election.

Sec. 8. *Be it further enacted*, That all white male citizens of the United States, above the age of twenty

Qualification of voters

ty one years, who shall have resided within the limits of the District where they are about to vote for the space of three months previous to the day of election, shall be entitled to vote for a member of the Legislative Council in such District; and no person shall be allowed to vote out of the district in which he shall reside.

Penalty for voting more than once at the same election.

Sec. 9. *Be it further enacted*, That if any person shall vote more than once at any such election, he shall upon conviction, forfeit and pay for every such offence twenty dollars, to be recovered with costs, before any justice of the peace; one half to the use of the county, and the other half to the use of the person suing for the same.

Persons taking a false oath

Sec. 10. *Be it further enacted*, That if any person shall be guilty of taking a false oath or affirmation, either when interrogated as to his qualifications, or when his testimony may be required in any contested election, or of procuring another to do so, shall, upon conviction be liable to the same punishments, as persons convicted of perjury are liable to by the laws of this territory.

Names of the voters to be transmitted by the Governor to the two persons of each district having the greatest number of votes

Sec. 11. *Be it further enacted*, That it shall be the duty of the Governor on the receipt of thus said returns, to cause to be transmitted to the two persons of each district having the greatest number of votes, a list of the names of all the voters so returned from the district. And he shall within one month after the day of election, examine the votes, and to the person having the greatest number of legal votes in each, he shall transmit a certificate of the same, under the seal of the territory.

Legislative Council shall determine contested elections

Sec. 12. *Be it further enacted*, That the certificates so granted by the governor, shall be considered *prima facie* evidence of the election of the person so certified, but in all cases of a contested election, c

other questions of qualification, the Legislative Council shall determine the same.

Sec. 13. *Be it further enacted.* That whenever two or more persons shall have an equal number of votes in any district, it shall be the duty of the Governor to order a new election in such district, at such time as he shall think proper, to be conducted according to the rules and provisions of this act; provided, however, that no new election shall be ordered, if one of the persons having an equal number of votes, shall have given notice that he intends to contest the said election according to the regulations prescribed by this act.

Two or more persons having an equal number of votes.

Sec. 14. *Be it further enacted.* That any person intending to contest the election of one returned to serve as a member of the Legislative Council, such person shall within thirty days after the election give to the person returned, and whose election he shall intend to contest, a written notice stating the particular facts upon which the same will be contested; and the name of the justice of the peace or Notary public before whom the depositions will be taken; and also shall give the party reasonable notice of the time and place of taking such depositions; provided, that no deposition shall be taken after the second Monday of the session of the Legislative Council; and the said justice shall issue his subpoena for such persons as may be required by either of the parties to give testimony, and any person refusing to appear and give testimony when subpoenaed for that purpose, he shall be fined by the magistrate or notary public issuing such subpoena, in the sum of fifty dollars, and execution may issue therefor. And the said justice or notary public shall take all testimony relative to such contested election, and shall seal up and transmit the same to the President of the Legislative Council.

Mode of proceeding in contesting the election.

Jurisdiction in
the third dis-
trict
Eleventh dis-
trict
Thirteenth dis-
trict

Election when
held
Compensation
to the Judges
and clerks.

Sec. 15. *Be it further enacted*, That for the purposes of said election, the county court of Walton county shall exercise jurisdiction in the third district; The county court of Duval county shall exercise jurisdiction in the eleventh district. And the county court of St. Johns county shall exercise jurisdiction in the thirteenth district; provided, that appointments shall not have been made by a county court in the same.

Sec. 16. *Be it further enacted*, That the said election shall be held on the first Monday of August next, and that the judges and clerks of said election shall receive as full compensation for their services, two dollars each per day.

Passed, January 11, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved, January 18, 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Giving a lien to Mechanics in certain cases.

Mechanics to
have a lien up-
on buildings for
work done
thereon, unless
a contrary sti-
pulation be ex-
pressly entered
into.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the first day of March next, master builders and mechanics of every denomination, in the Territory of Florida, contracting and engaging to put up and erect buildings of every description, or engaging to perform jobs of work on any such buildings, shall be entitled to, and shall have a lien, on all such buildings as they may put up or erect, or work upon, until the compensation

for services shall be fully paid and satisfied, to the amount agreed upon between the contracting parties, unless a contrary stipulation be expressly entered into at the time the contract is made, or work done.

Sec. 2. *Be it further enacted*, That the persons aforesaid, shall enforce the aforesaid lien, only in the following cases ; first, where the contract shall be reduced to writing, and signed by the parties making the same ; second, where the amount shall be liquidated between the contracting parties, and a nett balance be struck in favour of the persons contracting to perform as aforesaid, or to provide materials.

Contract shall be reduced to writing or nett balance struck to entitle to lien

Sec. 3. *And be it further enacted*, That all contracts entered into, liquidated, or nett balance struck pursuant to the provisions of this act, shall be recorded in the clerk's office of the county court for the county, where such contract shall be required to be executed, within thirty days after their execution, and upon failing to record the same, the party in whose favor the same may be made, shall be deprived of all benefit arising under this act.

Contract or nett balance struck, to be recorded in the clerk's office within thirty days

Passed, January 15th, 1827.

H. D. STONE,

Président of the Legislative Council.

GEORGE E. TINGLE, *Clerk*.

[*Approved, January 20th, 1827.*]

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To divorce Charlotte Courter

Marriage of
Charlotte Cour-
ter with Isaac
Courter dissol-
ved

Charlotte Cour-
ter to be known
by the name of
Charlotte
Smith

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage of Charlotte Courter with Isaac Courter be and the same is hereby dissolved, and the said Charlotte is hereby released from her marriage contract and restored to all the rights, privileges and immunities of a feme sole.

Sec. 2. And be it further enacted, That the aforesaid Charlotte Courter shall from and after the passage of this act, be called and known by the name of Charlotte Smith.

Passed, January 16th, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved, January 18, 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

For the relief of Lewellen Williams.

Treasurer in
settlement with
Lewellen Wil-
liams, to allow
him credit
Not to exceed
fifty dollars

*Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Lewellen Williams, tax collector for the county of Alachua, be allowed, in his settlement with the treasurer of the Territory, a credit for all monies advanced by him and not refunded, during the recent Indian disturbances to the military authorities of Alachua, to purchase ammunition or implements or other muniments of war: *Provided**

nevertheless, that such credit shall not exceed fifty dollars.

Passed January 17 1827.

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, Clerk.

[Approved January 20 1827.]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To establish the County seat of Nassau County.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the county seat of Nassau county shall be situated west of a line running south from Capt. Nathaniel Wiles' landing on St. Mary's river, and east of the King's road, leading from Camp Pinkney on the St. Mary's river, to Jacksonville on the river St. Johns; and that James Crozier, David Higginbottom, F. D. McDonnell, Elijah Higgenbottom and Lewis Bailey, junr. be, and they are hereby appointed commissioners, to select the most suitable place for the said county seat of Nassau county, within the boundaries herein before mentioned.

County seat of Nassau, where situate

Commissioners appointed to select a place for the county seat

Sec. 2. And be it further enacted, That any act or acts contrary to the provisions of this act, be, and the same are hereby, repealed.

Acts contrary to the provisions of this act repealed

Passed, January 12, 1827,

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, Clerk.

Approved, January 18. 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To repeal an act, entitled "An act for the relief of John Y. Garey."

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That an act, entitled an act for the relief of John Y. Garey, approved December 6th, 1825, be, and the same is hereby repealed.

Passed, January 20, 1827.

H. D. STONE,
President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved, January 20, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

County courts
vested with the
power of es-
tablishing fer-
ries and bridg-
es

Making further provisions for the establishment of Ferries and
Bridges.

Not to extend
privileges lon-
ger than five
years

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the several county courts of the Territory be, and they are hereby vested with the power of establishing ferries and bridges, within the limits of their jurisdiction respectively : and of granting the privilege of keeping the same, at such places and to such persons, and on such conditions as to the said courts respectively may seem expedient, and not inconsistent with the laws of the Territory ; and the said courts are hereby empowered to extend the privileges aforesaid, for a period of time not exceeding

five years, at the discretion of the court extending the same.

Passed, January 10th, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved, January 18, 1827.

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

For the transferring certain debts of the several counties to the Territory,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, all the debts that have been contracted and entered into by the several counties of this territory from and in behalf of criminal proceedings and prosecutions, be, and the same are hereby transferred and made a part of the territorial debt. Debts contracted by the several counties in behalf of criminal proceedings made part of the Territorial debt.

Sec. 2. Be it further enacted, That the treasurer of the territory be authorised and empowered, and it is hereby made his duty, to examine all such debts when presented, and if they be duly and properly certified, to audit and allow the same against the territory. Duty of the treasurer to examine such debts when presented.

Sec. 3. Be it further enacted, That no claim shall be allowed by the treasurer, unless the said claim shall be certified by the judge of the court, before whom the criminal proceedings may have been had, that the same is reasonable and according to the fees allowed by law. And where the services have not any fees allowed for the same, the treasurer shall not pay for such services, until the same is provided for by law. No claim to be allowed by the treasurer unless certified by the judge of the court.

Sec. 4. Be it further enacted, That any debt which

Debts incurred for apprehending, trying or supporting prisoners, to be paid by the territory.

Judges of the Superior courts shall certify the accounts of the jailor, sheriff &c

Acts inconsistent with the provisions of this act repealed.

may be hereafter incurred in any of the counties of this territory, either for apprehending or trying prisoners, or for their support and maintenance in jail, shall be paid out of any money in the treasury of this territory; And it shall be the duty of the jailor, sheriff or the ministerial officer of the court, to present his or their accounts to the judge of the superior court of the district where such officer shall reside, and if the judge find the same to be reasonable and according to the fees allowed by law, he shall certify the same to the treasurer of this territory who shall pay the same.

Sec. 5. *And be it further enacted*, That all acts, and parts of acts, passed by the Legislative Council of this Territory, inconsistent with the provisions of this act, be, and the same are hereby repealed.

Passed, January 17, 1827,

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk*.

Approved, January 20, 1827.

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To determine the commissions and taxes on auction sales.

Commissions for sales at auction.

Commission of two per cent. to be retained for the use of the Territory and

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all auctioneers, acting under the provisions of an act, entitled an act, to provide for the appointment of auctioneers and define their duties, shall be authorised to retain as commissions for sale at auction by them made, three per cent upon the amount of sales so made, and it shall be the duty of the said auctioneers to retain from the amount

of said sales the further sum of two per cent. for the use of the territory, to be collected and assessed by the county courts of the respective counties in which such auctioneers may reside.

collected by
the county
courts.

Passed, January 20, 1827.

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, *Clerk.*

Approved, January 20, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Authorising the Territorial Treasurer to institute actions against all persons indebted to the Territory,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the treasurer of the territory be authorized and empowered, and he is hereby authorised and empowered to commence and institute suits and actions against all persons who are now, or may hereafter be indebted to the territory, and collect all monies that may be due to the same.

Treasurer au-
thorised to com-
mence suits a-
gainst persons
indebted to the
territory

Sec. 2. *Be it further enacted,* That in all judgments recovered by the territory, there shall be taxed against the defendant, in the bill of costs, a fee of fifteen dollars, to be paid to the attorney prosecuting in behalf of the territory, as a full compensation for his services

All judgments
defendant tax-
ed fifteen dol-
lars, attorney's
fee.

Passed, January 20, 1827.

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, *Clerk.*

Approved, January 20, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Making further provisions for the county court of the county of
Munroe,

County court of
Munroe, where
located; its ju-
risdiction.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the county court of the county of *Munroe* shall be located on the Island of Key West, or at such place as the judges of said court shall appoint. The said court shall in addition to the powers now vested in the same by law, moreover be, and is hereby vested, with the power of exercising jurisdiction in all cases of crime and misdemeanor, the punishment whereof is not capital.

Shall hold a
session twice a
year; when
held

Sec. 2. *Be it further enacted,* That the said court shall hold a session twice a year, and the said sessions shall be held on the first *Monday* in May, and on the first *Monday* in November.

Passed, January 16th, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk.*

[*Approved, January 18th, 1827.*]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

In addition to an act entitled an act concerning roads, highways
and ferries.

Road duty shall
not exceed
three working
days in succes-
sion or six days
in the year

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the road duty which may hereafter be required to be performed by the citizens of the territory, in virtue of the said act, shall not exceed three working days in succession, or six

days in the year, unless by petition signed by at least fifteen freeholders ; and that the overseers of the roads shall receive no compensation for putting up sign boards at the forks of roads, but it is hereby made their duty to put them up at every important fork.

Sign boards at the forks of roads to be put up by the overseers

Passed January 12th 1827.

H. D. STONE,
President of the Legislative council.
GEORGE E. TINGLE *Clerk.*

Approved January 18th 1827.]

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To prevent the evil practice of gaming in this Territory.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passing of this act, if any person or persons shall be guilty of keeping or exhibiting any gaming table, commonly called A. B. C. or E. O. or roulette or rowley pawley, or vouget voir, or any fara bank, or other gaming table, or bank of the same like or kind, or of any other description, under any other denomination whatever, or shall be in any manner either directly or indirectly, interested or concerned in any of the aforesaid gaming tables, banks, or games, either by furnishing money or other articles for the purpose of carrying on the same, being interested in the loss or gain of said table or bank ; or employed in any manner in conducting, carrying on or exhibiting said table or bank ; every person so offending, and being thereof convicted in a court of competent jurisdiction, shall pay a fine not less than two hundred dollars, and not more than one

Persons keeping a gaming table or in any manner interested, fined not less than two hundred dollars, nor more than one thousand dollars

Upon failure to pay, shall be sentenced to stand in the pillory and be imprisoned

thousand dollars ; and upon failure to pay the same, shall be sentenced to stand in the pillory one hour, three days in succession, and be imprisoned not exceeding six months.

Owner or occupant of any house, suffering any bank game &c. to be carried on in such house.

Sec. 2. *Be it further enacted*, That if any owner or occupant of any house, out house, or other building, shall knowingly permit or suffer any of the before mentioned tables, banks or games to be carried on, or exhibited in their said houses, out houses, or other buildings, and being convicted thereof shall pay a fine not less than one hundred dollars, nor more than one thousand dollars.

Provisions of this act not to extend to such houses as may be licensed

Sec. 3 *Be it further enacted*, That the provisions of this act shall not extend to, or effect such houses as may be licensed in this territory.

Passed, January 21st, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved, January 23, 1827.

Wm. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To repeal an act entitled "an act to amend an act" concerning limitations of actions and for other purposes.

Act of Dec. 8, 1825, concerning limitation of actions, repealed

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the act, entitled, "an act to amend an act concerning the limitations of actions" passed December 8th 1825, be and the same is hereby repealed.

Act of Decr 1st 1825, concerning forcible en-

Sec. 2. *Be it further enacted*. That the first and second sections of the act, entitled "an act to alter and amend an act, concerning forcible entry and detainer," passed

December 1st 1825, be, and the same are hereby repealed.

try and detail-
er. repealed

Sec. 3. *Be it further enacted,* That so much of the act, entitled "an act concerning the improvements made on public lands," passed December 16th 1822, as subjects the right and interest of said improvements to execution for the payment of debts, be, and the same is hereby repealed.

Part of an act
concerning the
provements o
public lands
repealed

Sec. 4. *And be it further enacted,* That all laws which authorise a *ca-pias ad satisfaciendum* to be issued against the body or bodies of the debtor or debtors. shall be, and the same are hereby repealed.

All laws which
authorise a ca-
pias ad satisfa-
ciendum &c.
repealed.

Passed the 10th January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 18th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To prevent Indians from roaming at large through the Territory.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, if any male Indian of the years of discretion, venture to roam or ramble beyond the boundary lines of the reservations which have been assigned to the tribe or nation to which said Indian belongs, it shall and may be lawful for any person or persons to apprehend seize and take said Indian, and carry him before some justice of the peace, who is hereby authorised, empowered and required to direct (if said Indian have not a written permission from the agent to

Indians roam-
ing beyond the
boundary lines
without a writ-
ten permission
from the agent.

do some specific act) not exceeding thirty nine stripes, at the discretion of the justice, on the bare back of said Indian; moreover to cause the gun of said Indian (if he has one) to be taken from him, and deposited with the Colonel of the county or Captain of the district in which said Indian may be taken, subject to the order of the superintendent of Indian affairs.

No general license to be received as an excuse

Sec. 2. And be it further enacted That no general license, to roam or remain out of said limits for the purpose of hunting, shall be received by said justice as an excuse for any Indian, when found without his assigned limits.

Passed 15th January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To alter and change the name of Mary Morgan to Mary Crosby

Name of Mary Morgan changed to Mary Crosby

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this the name of Mary Morgan be altered and changed to the name of Mary Crosby, and that hereafter she be called and known by the same.

Passed January 15th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 18th 1827.

WM. P. DUVAL,

Governor of the territory of Florida.

AN ACT

to exempt certain persons from paying toll at the ferries and bridges of this Territory.

Be it enacted by the Governor and Legislative Council of the territory of Florida, that the Militia of said territory, when actually going to or returning from musters or other militia service, be, and they are hereby exempted from paying toll at any of the ferries and bridges in this territory.

Militia when exempt from paying toll at bridges and ferries.

Sec. 2. *And be it further enacted*, that clergymen and preachers of the Gospel shall likewise be exempted from paying toll at the said ferries and bridges, and that any keeper of a ferry or bridge who shall refuse to pass over, without hindrance, the said description of persons, or any of them, shall be fined in a sum not exceeding five dollars, to be recovered before the magistrate next adjoining the ferry or bridge at which such refusal or hindrance may take place; and one half of such fine shall be applied to the use of the county in which such magistrate shall have jurisdiction, and the other half to the person prosecuting the same.

Clergymen and preachers of the gospel exempt.

Keeper of a ferry or bridge refusing to pass over, without hindrance, such persons.

Passed January 16th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 18th 1827.

WM. P. DUVAL,

Governor of the territory of Florida.

AN ACT

To renovate the appointment of certain officers in this Territory.

When commis-
sions shall cease
&c.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That on the first Monday of February one thousand eight hundred and twenty seven, the commissions of all judges, clerks and sheriffs of the county courts, and of the justices of the peace, coroners and public notaries shall cease and be void, and that the duties of the several persons who shall be appointed to fill the said offices shall commence on the said first Monday of February 1827.

Passed January 8th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

[Approved, January 9th, 1827.]

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To amend the act establishing county courts in this territory.

Time of holding
county courts
in the Territo-
ry.

Continue in
session six ju-
dicial days.

Jurisdiction of
the county cts.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That hereafter, the judges of the county courts of this territory shall severally hold a court on the second Mondays in March, June, October, and January in every year; and said courts shall continue in session six judicial days, if necessary, and no longer.

Sec. 2. *Be it further enacted,* That the county courts shall within their respective counties, exercise original jurisdiction over all sums above fifty, and under

one hundred dollars, and concurrent jurisdiction, in all civil cases, above one hundred dollars, with the superior courts, both in law and equity.

Sec. 3. *Be it further enacted*, That the county courts shall also have concurrent jurisdiction, in all actions of case, covenant, trespass, assault and battery, affrays and breaches of the peace.

Concurrent jurisdiction in all actions of case, covenant, trespass &c.

Sec. 4. *Be it further enacted*, That the judge of each county court shall have power within the county, either in open court or vacation, to take the probate of wills, grant and repeal letters testamentary, and letters of administration; appoint, and displace guardians of infants and idiots, lunatics and persons *non compos mentis*, and to make all necessary orders for the issuing of process

Judge of county ct. power to take probate of wills &c to make orders for the issuing of process

Sec. 5. *Be it further enacted*, That it shall be the duty of the clerk, to make out a correct docket of all suits or causes of action brought in the said court, at least fifteen days before the first day of each county court, and deliver the same to the judge, and should the business require it, he shall direct the sheriff to summon a sufficient number of qualified jurors to attend at the term of such court.

Duty of clerk to make docket and summon jurors.

Sec. 6. *Be it further enacted*, That whenever a sufficient number of summoned jurors fail to attend, or are rejected, it shall be lawful to make up the deficiency from the bye-standers, and the jurors in the county court shall possess the same qualifications, and be liable to the same exceptions, as jurors in the superior court.

Summoned jurors failing to attend, deficiency made up from the bye-standers—qualification of the jurors.

Sec. 7. *Be it further enacted*, That it shall be the duty of the judge of the county court, whenever he may deem it necessary, to cause a *venire facias* to be issued, to summon a grand jury, who shall possess the same power and be governed by like rules as the grand juries summoned in the superior courts.

Duty of the Judge to cause a venire facias to be issued, to summon a grand jury

Tax collectors
to give bond to
the Judges, sum
to be approved
of by the court.

Sec. 8. *Be it further enacted*, That it shall be the duty of the said county courts, to order the tax collectors of the counties respectively, to give bond to the judges of said courts, with two or more good and sufficient securities, and in a sum to be approved of by said courts, conditioned for the faithful discharge of the duties of their office.

Duty of Justices
of the peace

Sec. 9. *Be it further enacted*, That it shall be the duty of the several justices of the peace of each county, to attend the county court on the second Monday in March and October, in each and every year, when they, or a majority of them, shall proceed to transact all road and county business, which shall come before them, in the same manner as they are now by law authorised to do.

Acts inconsistent
with this re-
pealed.

Sec. 10. *And be it further enacted*, That so much of any act as is inconsistent, or comes within the purview of this act, be, and the same is hereby repealed.

Passed, January 20th, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk*.

Approved, January 20, 1827.

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

Further to define the boundary lines of Washington county.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the county of Washington shall be comprehended within the following described limits; beginning at Bunkers on Choctawhatchee, running thence up said river on the East

boundary line of Walton county to the Alabama line, thence East on said line, to the East line of range the fifteenth; thence a direct line to the Oaky Hill, so as to include the settlements thereof: thence a south course to Hamleys trail; thence along said trail to where it intersects the Appalachicola river; thence down the western bank of said river, including Cape St. Blas and the Islands of said bay, together with the Islands along the Main; thence a direct course to the head of St. Rosa's Island; thence bounded by the eastwardly line of Walton county to the beginning.

Boundary line
of Washington
county

Sec. 2 *And be it further enacted.* That all acts and parts of acts, coming within the purview of this act, be, and the same are hereby repealed.

Acts coming
within the pur-
view of this act
repealed.

Passed the 3rd January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 12th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend an act, entitled "an act to provide for the election of a delegate to Congress.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the judges of the county courts of the respective counties be, and are hereby empowered and directed to designate such places in their respective counties, for holding an election for Delegate to Congress, as they may judge best suited to the convenience of the citizens, by advertisement at least six weeks before the time appointed by

Judges of the
county court
empowered to
designate place
of holding e-
lection and ap-
point Judges of
election.

Judges neglect-
ing to give no-
tice, duty of the
clerk of the ct.

law for said election, at the places designated for holding said election, and they are further empowered and directed to appoint three judges of said election, any two of whom shall have power to act at such places as they may be appointed for, whose duty it shall be to receive and count the votes which may be given at such places. But if the judges, any, or all of them should neglect to give notice of the aforementioned election in their respective counties, according to the provisions of this act, then the clerk of the county court for said county is hereby empowered and directed, to give at least four weeks notice of said election, and to appoint the judges of the same, according to the provisions of this act.

Judges of elec-
tion, their du-
ty.

Sec. 2. *Be it further enacted*, That before any votes are received, the judges shall appoint a clerk, and the said judges and clerk shall severally take an oath or affirmation, in the following words (to wit.) I D, C. do solemnly swear or affirm. (as the case may be) that I will perform the duties of judge of the election, (or clerk as the case may be) according to law, and to the best of my abilities, and that I will studiously endeavour to prevent fraud, deceit and abuse in conducting the same: which oath or affirmation shall be administered by a judge or justice of the peace, at the opening of the polls; but if no judge or justice of the peace should be present, the judges of election are hereby authorised and empowered, to administer the oath to each other, and to the clerk.

When election
shall take place

Sec. 3. *Be it further enacted*, That the election for Delegate to Congress shall take place on the first Monday of May eighteen hundred and twenty seven, and a like election shall take place every second year thereafter.

*Sec. 4. *Be it further enacted*, That the votes shall be given by ballot, at the time and place of holding

the election, and the polls shall be opened at eight o'clock in the morning, and closed at six o'clock in the evening, when the votes shall be openly counted and declared by the judges

When the polls shall be opened and closed.

Sec. 5. *Be it further enacted*, That when two or more ballots are put in the box, folded as one ballot, they shall not be counted; and when any ballot contains the names of more than one candidate, the ballot containing such names likewise, shall not be counted.

Two or more ballots folded as one, or containing the names of more than one candidate.

Sec. 6. *Be it further enacted*, That it shall be the duty of the clerk, under the direction of the judges, to provide a poll book, in which the names of all the voters shall be registered as they hand in their ballots to the judges; whose duty it shall be to receive them, and to declare in an audible voice to the clerk, the name of the voter; after which, if his vote be lawful, it shall be deposited in a ballot box, to be prepared by the judges of the election. It shall also be the duty of the clerk, to register the names of the different candidates in said poll book, and after the ballots are counted, to set down under each candidates name the number of votes he has received, after which it shall be the duty of the judges and clerk to sign said poll book, and deposit the same in the office of the clerk of the county court, within twenty days after the said election.

Manner of receiving ballots

Sec. 7. *Be it further enacted*, That the following shall be the form of the poll book, first the name of the county and of the poll, shall be written at the head of the book, day of the month, and date of the year; second, the names of the voters; third, the names of the different candidates; fourth, the number of votes each has received.

Form of the poll book.

Sec. 8. *Be it further enacted*, That within ten days after the election, the judges of the same shall inclose and seal up under cover of three envelops, the certifi-

Certificate of election to be forwarded to the Governor— cate and return of said election, and deliver the same to the sheriff of the county; whose duty it shall be to forward the same to the Governor of the territory, by the first mail thereafter.

Form of the certificate,

Sec. 9. *Be it further enacted*, That the following be the form of the certificate that shall accompany the transcript from the poll book, which shall make the return complete. *We the subscribers, judges of an election for Delegate to Congress, held at* in the county of do hereby certify that at the said election, held at the aforementioned place, A. B. and C. were candidates, and that there were given for A. B. the number of votes, and for C. the number of votes

Signed,
D. C.
R. S.

Test,
J. R. Clerk,

Acts repealed.

Sec. 10. *And be it further enacted*, That the first, second, third, fourth, fifth and sixth sections of "an act entitled an act, to provide for the election of a Delegate to Congress, approved July 3rd 1823; and "an act, entitled an act to amend an act providing for the election of a Delegate to Congress, passed December 29th 1824, be, and the same are hereby repealed.

Passed, January 16, 1827,

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE. *Clerk.*

Approved, January 20, 1827.
WM. P. DUVAL,
Governor of the Territory of Florida,

AN ACT

Relative to writs of Ne Exeat.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That writ of Ne Exeat shall not be granted, but upon a will filed, and affidavit made to the truth of the allegations, which being produced to the court in term time, or to the judge in vacation, he may grant or refuse such writ as to him shall seem just, and if granted he shall endorse thereon in what penalty bond and security shall be required of the defendant: And a writ of ne exeat may issue in any cause where the court of chancery shall have concurrent jurisdiction with a court of common law; and he shall also endorse the name of the securities, and in what sum bond shall be required of the complainant; and no writ of ne exeat shall issue, until such bond shall be given by the complainant in the clerks office from whence the writ is to issue; and in case any person stayed by said writ of ne exeat shall think himself or herself aggrieved, he or she may bring suit on such bond, and shall recover the damages sustained by such writ of ne exeat.

When a writ of ne exeat may issue.

Any person stayed by said writ thinking himself aggrieved.

Sec. 2. And be it further enacted, That if the defendant shall go out of the territory, but shall return before a personal appearance shall be necessary by any decree of the court, or shall be necessary to perform any order of the court, such his or her temporary departure, shall not be considered a breach of the condition of the bond.

Going out of the Territory & returning before personal appearance necessary.

Sec. 3. Be it further enacted, That whenever the defendant or defendants to the bill shall give security, that he or they will not depart the territory, the security, personally, or by attorney, shall have power at any time, (before the bond shall be forfeited) to take body of his principal, and surrender him in open court,

Security may surrender the body of his principal.

Or deliver him to the ministerial officer of the court granting said writ in which the suit is depending ; who shall detain said principal, as in cases of the surrender of the principal by special bail ; and at the time of such delivery to the aforesaid officer, he shall take his receipt for the body, and file it with the clerk of the court, either of which, if done before the bond is forfeited, shall discharge the security from his undertaking.

Passed, December 27st, 1826.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved, December 29, 1826.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To authorise the apprehending fugitives from Justice in certain cases.

Persons fleeing
from justice
guilty of felony.

Be it enacted by the Governor and Legislative Council of the territory of Florida, That whenever any person or persons may hereafter lodge information upon oath before any judge of the superior or county court, that any person within his jurisdiction hath committed a felony specifying the particular felony, and state, and county, in which any such felony was committed within any of the United States, and that said person or persons hath fled from the justice of such state, it shall be the duty of such judge before whom such information is lodged, forthwith to issue his warrant directed to some proper officer, to apprehend such fugitive ; and upon the apprehending said person or persons, said of-

licer shall immediately return the warrant, and bring the prisoner or prisoners before the judge awarding the same. and the said judge upon return of said warrant, shall enquire into the truth of the charge exhibited against such person or persons, and if he shall be of opinion that such person or persons are actually guilty of the felony, or that he shall have been legally charged, and that he or they have fled from the justice of any other state or territory, such judge shall by his warrant commit such person or persons to the jail of the county in which such person was apprehended, if there be a jail in said county, and if not, to the lawful officer of the nearest county in which there may be a jail.

Sec. 2. *Be it further enacted,* That the judge committing any such fugitive, shall immediately give the Governor of the territory for the time being notice of the apprehending and committing such person or persons; and the Governor upon receiving such information, shall notify the Executive authority of the state from which said fugitive hath fled, and if such Executive authority shall not within four months demand such fugitive, every such fugitive shall be discharged from custody.

Notice of apprehension to the Governor.

Sec. 3 *Be it further enacted,* That the jailor shall be allowed the same for committing and maintaining such fugitive, and the sheriff or other officer, the same for apprehending him; as is now allowed for committing, maintaining, and apprehending other criminals in this territory.

Fees to the jailor and sheriff.

Passed January 15th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To establish the scite for the Court house and other public buildings for Jackson County.

Commissioners
appointed.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That William Patterson, C. C. Nichols, George Jackson, James Webb, and Arthur Foster, be, and they are hereby appointed commissioners, and vested with the powers, and charged with the duties hereinafter prescribed, and any three of the said commissioners are hereby authorised to execute the same.

Commissioners
to give bond
and security.

Sec. 2. *Be it further enacted,* That the said commissioners, before entering on the duties of their office, shall give bond to the judge of the county court and his successors in office, in a sum and with security, to be approved of by the said judge, and conditioned for the faithful discharge of the duties enjoined by this act.

Authorised to
select and lo-
cate a county
seat, and dis-
pose of lots.

Lots how sold

Sec. 3. *Be it further enacted,* That the said commissioners, are hereby authorised to select and to locate as a county seat for the said county, such quarter section of the public lands as to the said commissioners shall seem fit and expedient, and shall be authorised by an act of Congress, to adopt and lay off a plan of a town on the same. And the said commissioners are hereby authorised to sell and dispose of the lots of said town, on such terms as to the said commissioners shall seem most advantageous to the said county, Provided, that none of the said lots shall be sold at private sale, but they shall be sold at public auction to the highest bidder, and after public notice of such sale, shall first have been given, for the space of at least thirty days in the newspapers of Pensacola and Tallahassee, and at three of the most public places of said county.

Sec. 4. *Be it further enacted,* That from the monies and specialities arising from the said sale, the said

commissioners are hereby authorised to pay for the and by them selected for the county site, and to pay land disburse the expenses attendant on building a court house, jail, and such other public buildings as to the said commissioners shall seem necessary and expedient for the use of the said county : *Provided*, that no expenditure or disbursement to be made as aforesaid, shall be paid or disbursed, if the same shall exceed the sum of fifty dollars, unless the same shall be disbursed in virtue of a contract previously made by the said commissioners to the lowest bidder, and which contract shall have been published in the said county at least ten days before the same shall have been made.

Money arising from sale of lots—how disbursed.

Sec. 5. *Be it further enacted*, That when the said buildings shall be completed, or when thereunto required, it shall be the duty of the said commissioners to render to the county court aforesaid, a true account of all the monies and specialities by them received, and of all the monies and specialities paid and disbursed in conformity with this act, and the said commissioners shall moreover pay over to the said court, such monies and specialities as shall remain in their hands after making the disbursements herein-before provided for, and the said commissioners shall not be discharged from their bonds until the same shall be done by order of the said court.

Commissioners to render to the county court, an account of all moneys etc.

Sec. 6. *Be it further enacted*, That the said commissioners shall receive as full compensation for all the duties required by this act to be performed, the sum of five per centum upon all monies by them received, and five per centum upon monies by them disbursed by virtue of this act, the said compensation to be divided amongst such of the said commissioners as shall have attended to, and performed the duties herein required.

Compensation to the commissioners.

Vacancies how
filled.

Sec. 7. *Be it further enacted*, That if a vacancy shall occur amongst the said commissioners, and the public work herein provided for shall be thereby impeded, the same shall be filled by election of such of the citizens of said county as are authorised to vote for Delegate to Congress, to be held at such time and at such places, as the said commissioners shall direct, and due notice of at least ten days shall be given thereof. And that until the court house herein provided for shall be built, or other provision made for a session of the courts at the same place, the courts of said county shall be held on section number sixteen, in township five and range eleven.

Court, where
held.

Commissioners
may sell quar-
ter section, or
barter it for an-
other.

Sec. 8. *Be it further enacted*. That if after the selection herein-before provided for, of a quarter section for a county seat, it shall appear to the said commissioners that such quarter section is unfit and ineligible for the purposes aforesaid of a county seat; it shall be lawful for the said commissioners to sell and dispose of the same, on such terms, and at such time, as to the said commissioners shall seem most to the advantage of the said county; provided, that due notice of such sale shall be given in the manner hereinbefore provided for. And the said commissioners, should they deem it advantageous to the county, are hereby authorised to barter and exchange the said selected quarter section, or otherwise to compound for another site. And from the monies and specialities arising from such sale, it shall be the duty of the said commissioners to apply and pay so much of the same as shall be necessary to purchase another site for the seat of the said county, and to proceed in improving the same for the same purposes, and in the same manner as is hereinbefore provided for the quarter section first selected.

Sec. 9. *Be it further enacted*, That all acts and parts of acts inconsistent with or repugnant to the provisions of this act, be and the same are hereby repealed. Acts repealed.

Passed January 16th 1827.

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, Clerk.
Approved January 20th 1827.
WM. P. DUVAL,
Governor of the territory of Florida.

AN ACT

To amend an act, entitled "an act to incorporate the City of St. Augustine."

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the corporation of the City of St. Augustine be, and they are hereby vested with the power to grant leases to the keepers of gaming houses or tables, and to levy a tax on the same: *Provided*, that such tax shall not be less than the sum of fifty dollars per year upon any one table.

Power to grant licenses to the keepers of gaming houses—tax.

Passed, January 17, 1827,

H. D. STONE,
President of the Legislative Council.
GEORGE E. TINGLE, Clerk.
Rejected, January 20. 1827.
WM. P. DUVAL,
Governor of the Territory of Florida.

Reconsidered, and passed by the requisite majority, January 20th, 1827.

AN ACT

To incorporate the City of Tallahassee.

City of Tallahassee incorporated.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the free white male inhabitants, over the age of twenty-one years, comprehended within the south east quarter of section thirty-six, township one, range one, north of the basis parallel, and west of the meridian, in the county of Leon and District of Middle Florida, and two hundred feet outside of the said boundary line, and their successors, be, and remain for the term of five years, from the first day of January one thousand eight hundred and twenty seven, a body corporate, by the name and style of the city of Tallahassee; and by their corporate name may sue and be sued, implead and be impleaded, and do all other acts as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of the said City.

Qualification of Intendant and members of Council.

Sec. 2. *Be it further enacted,* That the government of the said city shall be vested in a City Council, composed of an Intendant and eight Councilmen, each of whom shall have the qualification of being the proprietor of a lot, or the occupant of a house, and shall have resided three months within the limits aforesaid, in order to fill either of said offices.

Intendant to have the powers, etc. of a justice etc.

Sec. 3. *Be it further enacted,* That the intendant shall have the power, and exercise all the duties, and may receive the fees of a justice of the peace, within the said corporation.

Power and authority of the City Council

Sec. 4. *Be it further enacted,* That the said City Council shall have full power and authority to prevent and remove nuisances, to license and regulate auctioneers and auctions, retailers of goods and liquors and taverns, to restrain or prohibit all sorts of gaming, to license and regulate theatrical and other public amuse-

ments, to establish and regulate markets, to direct the safe keeping of the standard of weights and measures, appointed by Congress, to provide and regulate burial grounds out of the said limits, for the use of said city, to sink wells, and erect and repair pumps in the streets and public squares, to erect and repair market houses and public scales within the aforesaid limits, excepting the capitol and pleasure squares; to establish and regulate patrols, to regulate the storing of gun power, to tax and license hawkers and pedlars, to restrain and prohibit tipling houses and lotteries, to provide for the establishment of public schools, and superintendence of the same, to restrain and punish vagabonds and disorderly persons, and the disorderly conduct of negroes and persons of colour, and generally to provide for the interior police and good government of said city.

Sec. 5 *Be it further enacted*, That the said city council shall have power to levy a tax for the purposes recited in the preceding section of this act, in such manner and under such circumstances as the said council shall conceive least burthensome to the citizens, and to provide for the collection thereof: Provided, that no tax shall be imposed on real property at any higher rate than one quarter of one per cent. on the assessed value of the same, and shall have power to make and pass all such ordinances, and to impose such fines and penalties for infringement thereof, or non compliance therewith, as shall to the said City Council seem necessary to give effect and operation to the powers, and regulation to the duties herein and hereby given and imposed to, and upon the said corporation or City Council, any law of this Territory to the contrary notwithstanding. Provided further, that no capitation tax be levied on persons not entitled to vote for Intendant and Councilmen; and Provided, that the said ordinances and rules shall be signed by the Intendant, and attested by the clerk, and that no ordinance shall be passed,

Power to levy taxes.
Tax on real estate.

granting any salary, pay or allowance to the said Intendant or councilmen, or to either of them.

Shall have power to judge of election and qualification.

Sec. 6. *Be it further enacted,* That the said city council shall have power to compel the attendance of its members, and to judge of the election returns and qualifications of the Intendant and its own members, and the yeas and nays on any question shall, at the request of any two members, be placed on the record.

Power to elect officers.
Expel a member.

Sec. 7. *Be it further enacted,* That the said City Council shall have power to elect a treasurer, clerk, and such other officers, as to the said City Council may seem necessary to give effect to the powers, and regulation to the duties by this act given to, or imposed upon the said City Council, and to determine the salaries of the said officers, and the same to dismiss at pleasure, and two thirds of said City Council may expel a member of the said Council, for disorderly behaviour, or mal-conduet in office.

Promulgation of ordinances, &c.

Sec. 8. *Be it further enacted,* That it shall be the duty of the said city council, to cause to be kept regular records of their proceedings, and of their ordinances, rules, and regulations, and they shall promulgate their ordinances without unnecessary delay. by posting the same at the common market place, on the capitol, or at the door of the Council room; or in any newspaper in said city, so that the same be exposed to public view at least four weeks.

Absence or disability of the Intendant.
May sit with closed doors.

Sec. 9. *Be it further enacted,* That it shall be the duty of the said City Council to hold their meetings in public, and at such times and places as to the said council may seem fit, and the Intendant shall be president of the board, and in the absence or disability of the Intendant, a majority of the Council may on any occasion appoint from among their number an Intendant, who shall have power pro tempore, to do the duties of Intendant; Provided however, that a majority of the

City Council then present, may sit with closed doors whenever they may deem the public interest requires it

Sec. 10. *Be it further enacted*, That five of the said City Council shall form a quorum for the transaction of business.

Five to form a quorum.

Sec. 11. *Be it further enacted*, That it shall be the duty of the said city council to exact from the Treasurer at least four times in each calender year, a statement of the receipts, and of the expenditures of monies, and of the sums of money due to and from the said corporation, and to certify the same to be correct, if on examination such statement is found to admit of such certificate, and to require a report of stock and other property of said city, committed to his charge.

Shall exact a statement four times in each year, from the Treasurer, of the expenditures etc.

Sec. 12. *Be it further enacted*, That it shall be the duty of the said Intendant to see that the ordinances of the said council are duly executed, and to call a meeting of the councilmen when in his opinion the public good may require it, and he shall lay before the council from time to time in writing, such propositions as he may deem advisable for the welfare of the said corporation, and the said City Council shall have power to adjourn from time to time.

Duty of the Intendant.

Sec. 13. *Be it further enacted*, That the said Intendant shall, within five days after his election, take an oath or solemn affirmation, before any judge or justice of the peace of this Territory, that he will to the utmost of his power, support, advance and defend the interest, peace, and good order of the city of Tallahassee, and faithfully and diligently discharge the duties of Intendant of the said city, during his continuance in office, and that he will support the constitution of the United States. And he shall, within the aforesaid time of five days after the election, convene the councilmen elect, and administer to each of them, an oath or affirmation similar to that taken by himself.

Oath to be taken by the Intendant and Councilmen.

Order of the
Council &c. for
payment of the
money by the
Treasurer.

Sec. 14. *Be it further enacted*, That the Treasurer shall receive all monies due and owing to the said corporation, and he shall keep an accurate account of the same, and all money paid out, for or on account of said corporation shall be paid by the treasurer, on an order of the Council, attested by the clerk, and countersigned by the Intendant.

Elections when
to take place.

Sec. 15 *Be it further enacted*, That the first election for Intendant and Councilmen under this act, shall take place on the fourth Monday in January, 1827. And each succeeding election shall be held on the first Monday of January every year, and the said elections shall be held under the inspection and superintendence of three inspectors, who shall be judicious and discreet persons, and the votes shall be given by ballot, but no judge of the election shall be qualified to run for the office of Intendant or city councilmen, or shall be eligible to said offices, or either of them, at the time he is so judge of the election.

Judges of elec-
tion ineligible.

Duty of the
judges of elec-
tion.

Sec. 16. *Be it further enacted*, That it shall be the duty of the said inspectors or any two of them, to receive the votes, and to cause the name of every voter to be taken down and inscribed in a book to be kept for that purpose, and to cause the poll to be held at such place as they or any two of them may deem proper, and to be opened and continue open from nine o'clock in the morning until five in the evening, when the ballots shall be told, and the name of the person having the greatest number of votes for Intendant shall be declared, and the names of the persons having the greatest number of votes for councilmen, shall be declared, and the names of the said Intendant and Councilmen elect shall be recorded, and notice of their election given to each of them.

Sec. 17. *Be it further enacted*, That it shall be the duty of the said City Council, at least two weeks pre-

viously to the day appointed for election, to appoint the inspectors of election by this act required, and to notify them of such appointment, and the said inspectors shall give public notice within three days thereafter, by posting up at the market and three different places, of the time and place of such election.

Council to appoint the judges of election, notice to be given.

Sec. 18. *Be it further enacted*, That if by reason of the refusal, absence or other unavoidable casualty, the Intendant elect shall be prevented from performing the organizing duties by this act required, it shall in such case be the duty of the Intendant in office to cause a new election to be held by the same inspectors, who shall forthwith give at least one weeks notice of the same, and hold another election for Intendant, conformably to this regulation.

Refusal, absence &c. of the Intendant elect.

Sec. 19. *Be it further enacted*, That Aaron Peabody, James Bryant and Wm. Witherington be, and they are hereby appointed inspectors to superintend the election for Intendant and Councilmen for said city, on the fourth Monday of January, one thousand eight hundred and twenty seven, and they or any two of them may do the duties of superintending required, and in the event of the occurrence of any of the casualties contemplated by this act, to prevent the organization of the said City Council, they or any two of them, are hereby authorized to hold a re-election for Intendant.

Inspectors of election for January 1827.

Sec. 20. *Be it further enacted* That the said Intendant and City Councilmen shall have power to fill vacancies in their own body, by causing an election to be held in the same manner as is provided for in this act, out of the citizens qualified to fill the same, and that the said Intendant and city councilmen shall in all cases continue their respective functions, until their successors be elected and qualified into office.

Vacancies how filled.

Qualification of
voters.

Sec. 21. *And be it further enacted*, That every white male inhabitant of the age of twenty-one years or upwards, who shall have resided three months within the limits above described, and every white male person who shall have resided six months within the County of Leon, and one month in the City of Tallahassee, shall be entitled to vote for Intendant and Councilmen for the said corporation.

Passed, January 10, 1827.

H. D. STONE,
President of the Legislative Council
GEORGE E. TINGLE, *Clerk*.

Approved, January 18, 1827.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To amend an act concerning the conveyance of Real Estate.

Person convey-
ing land, resid-
ing in any other
county than
that in which
the land lies.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That where any person is about to convey a tract of land, and resides in any other county than that in which the land lies, it shall and may be lawful for such person and his wife (if he has any) to acknowledge and subscribe a deed for the same, in the presence of a Judge of the Superior court, judge of the county court, notary public, or a justice of the peace, and such judge, notary, or justice of the peace, having previously examined the wife apart from the husband, whether she with her own free will and consent relinquished her right of dower in such lands, shall certify the same on the deed under either of their hands. and within three months thereafter, the clerk of the county, where the parties making such deed resides, shall

certify on the original deed that the person before whom such deed was acknowledged, is a judge of the superior court, judge of the county court, notary public or justice of the peace, (as the case may be) and that due faith and credit is to be given to any act done by them, and the seal of the county shall be affixed to such certificate, and such deed certified as aforesaid, shall be admitted to record within any county in this Territory, where the land may lie, and shall be deemed as lawful as if the same had been executed in the said county, and the clerk for giving such certificate on the original deed shall receive one dollar, to be paid by the party acknowledging the deed.

Fee tot

Sec. 2. *Be it further enacted*, That where the parties reside in any other State, and are about to convey land lying within this Territory, it shall be lawful for them to proceed in like manner, in every respect, before the county officers of such State, and the same shall be as lawful as if executed in the county where the land lies.

Where the parties reside in any other State

Sec. 3. *Be it further enacted*, That any person or persons about to give a power of attorney to another residing in any other county within this Territory, may acknowledge the same before the judge of the county court, or a justice of the peace of the county where the person about to acknowledge the same may reside, and the clerk of the county shall certify under his county seal, that the said person is a judge or justice of the peace, (as the case may be) and such power of attorney so certified, being produced to the clerk of the court, where the person resides, to whom the power is made, and in which the business is to be done, shall be admitted to record in his office, and such power shall be deemed sufficient. Where the person or persons making such power of attorney resides in another State or Territory, he or they shall proceed as above required, except that the seal of the State or Territory shall be affixed to such power of attorney.

Power of attorney to another residing in any other county or in another state

Feme covert,
relinquishment
of dower.

Sec. 4. *Be it further enacted*, That it shall and may be lawful in such cases, where deeds have been recorded, and the *feme covert* hath not relinquished her right of dower in the same, for her to relinquish her right to the lands so deeded, before a judge of any court in this Territory, justice of the peace, or notary public in the county, and such judge, justice or notary having previously examined her as is before directed, shall certify the same under his hand and seal.

Deeds, trans-
fers &c. in exe-
cution of con-
tracts, made
previous to the
death of the
party

Sec. 5. *Be it further enacted*, That where any person has died or shall hereafter die intestate, leaving his heirs or any of them infants, or having made a will, shall not in such will have authorised his executors or some fit person to make deeds of conveyance, or to transfer or make assignments in performance of his contracts, and having previous to his death executed bonds or any instrument of writing, binding him to convey any tract of land or lots, in such case it shall be lawful for the administrators or executors to apply to the county court where such land lies, to appoint three fit persons guardians of such infants, who shall have full power and authority to convey any tract or parcel of land to the person entitled to the same, which the decedant bound himself and his heirs in any instrument of writing to convey, agreeably to the tenor of such instrument, and such conveyance so made shall be as valid and binding upon the heirs, as if made by the ancestor in his life time : *Provided however*, that nothing in this act shall be so construed as to prevent the infant representatives of such decedant from instituting suits to recover such land, or a compensation in damages from the person or persons to whom it shall be conveyed, if any fraud shall have been practiced in obtaining the same.

Proviso in case
of fraud

Sec. 6. *Be it further enacted*, That all conveyances by commissioners and sheriffs hereafter to be made, for lands, tenements or heraditaments, sold in virtue of

any decree or judgment of any court within this Territory, shall be, and they are hereby declared to be good and effectual for passing the absolute title to such lands, tenements and hereditaments to the purchasers, thereof, and all persons claiming under them, saving to the Territory and to all and every person or persons, bodies politic and corporate, their respective heirs and successors, other than the parties to such conveyances, decrees or judgments, and those claiming under them, all right, title, interest and demand, as they, any or every of them would have had, in case this act had not passed.

Conveyances
by commission-
ers and Sher-
iffs, good and
effectual.

Sec. 7. *And be it further enacted*, That a deed of conveyance of real estate, if made in a place beyond the limits of the United States, where there shall be no public minister, consul or vice consul of the United States to certify the act of the grantor of such deed, and the testimony of the witnesses thereto, such act of the party may be made before two subscribing witnesses and a civil officer of such place, and the identity of such civil officer and credibility being certified by a consul or vice consul in the United States, of the government of which such place may be a part, a deed thus certified shall, if presented for record be admitted to the same as good and valid.

Deed made be-
yond the limits
of the U. S.
where there
shall be no
public minister
etc.

Passed January 19th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 20th 1827,

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To constitute a board of trustees for Fort St. Marks.

Trustees appointed.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Nathaniel Hamlen, John Maloney, Edward Illicky, Samuel Crosby and Cromwell Sprague, and their successors in office, be trustees, and they are hereby created a body corporate, by the style of trustees of Fort St. Marks, and as such may sue and be sued, and generally may assume the identity of a natural person, with the trust, power and duties hereinafter prescribed.

Trustees how appointed.

Sec. 2. Be it further enacted, That the said trustees shall hold their office for one year, and vacancies occurring during the recess of the Legislative Council, shall be filled by the Governor, and the successors in office of said trustees shall be appointed by the Governor by and with the consent of the Legislative Council. The said trustees shall elect from their body a chairman, and not less than three of their number shall be necessary to transact business, and they shall meet at such times as they may deem necessary.

Power to lease the buildings & improvements.

Sec. 3. Be it further enacted, That the said trustees shall have power to lease the buildings and improvements of said fort, at such times and on such terms as the said trustees may deem proper, but all leases made as aforesaid, shall be made at public auction to the highest bidder, and with a previous public notice of ten days, and no lease shall exceed the term of one year, and from the monies arising from such lease, the said trustees are hereby authorised to make the expenditures specially provided for by this act, and none other; and they are hereby required to furnish the Territorial Treasurer with a semi-annual and detailed statement of all the monies they shall receive and disburse by virtue of this act, and they are hereby required to pay

to the said treasurer, semi-annually, the surplus or balance of money remaining in the hands of the said trustees.

Sec. 4. *Be it further enacted*, That it shall be the duty of said trustees to remove all nuisances from the said Fort, and to make all necessary repairs on the buildings, dams, drains, wharves, and the road to Tallahassee, to the distance of three miles from the said Fort ; but no expenditure for these purposes, or any of them, involving a sum exceeding fifty dollars shall be made, except by a public notice of at least twenty days, and by contract to the lowest bidder ; and it shall be the duty of the said trustees to regulate the pilotage into the harbor of the said fort, and to regulate the anchorage and mooring of vessels in the same, and each of the said trustees during the absence of a justice of the peace, shall have power *ex officio*, to suppress all riotous and disorderly conduct ; and it shall be the duty of said trustees to aid the corporation of the city of Tallahassee, in all measures which by the said corporation shall be deemed expedient, and be required for the preservation of the health of said fort, or of the said city.

Duty of the
Trustees.

Sec. 5. *Be it further enacted*, That it shall be the duty of the said trustees, to cause to be kept a regular journal of all their proceedings, and an account of all the receipts and expenditures which may occur in virtue of this act, and they are hereby invested with the power, and charged with the duty of making such rules and regulations as to the said trustees shall seem necessary, to give effect to the trust, powers and duties provided for by this act : provided nevertheless, that public notice of the same shall be given, at least ten days previously to the time when such regulations shall be intended to take effect.

Shall keep a
journal of their
proceedings,
receipts and
expenditures.

May furnish the
board with sta-
tionary.

Sec. 6. *Be it further enacted*, That the said trustees may furnish the board with the necessary stationary, but for the duties herein proscribed to be performed, the said trustees nor any of them except the chairman shall be allowed any compensation.

Compensation
to the chairman

Sec. 7 *Be it further enacted*, That the said chairman shall superintend the leasing of the said buildings, and the repairs provided for by this act, and shall receive for his services two and a half per centum on all money by him collected, and two and a half per centum on all money by him paid out, or over to the treasury of this Territory.

Act repealed.

Sec. 8 *And be it further enacted*, That an act approved December 9th, 1825, making an appropriation for the repairing of the buildings at Fort St. Marks, and for other purposes, be, and the same is hereby repealed

Passed January 3d, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk*.

[*Approved, January 12th, 1827.*

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

Regulating the proceedings in constructing or repairing partition fences.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the first day of March next, when any person legally authorised, shall be desirous of constructing or repairing a partition fence, he or she shall proceed by giving at least ten days notice of such desire, to the owner of the adjacent premises, or in his or her absence, to the tenant in possession of the same, and if after such notice, and by default of the owner or tenant aforesaid, no mutual agreement shall be made as to such intended construction or repairs, then the party so intending and notifying, may proceed in such construction or repairs at the joint expense of both parties, and the amount of money to be contributed by the party failing to agree as aforesaid, shall be adjudged in the manner hereinafter provided for.

Notice to be given to the party for constructing or repairing partition fences.

Sec. 2. *Be it further enacted,* That the party so constructing or repairing a partition fence, shall apply to the county court if in session, or to the judge in vacation, by setting forth the ground enclosed, and the name of the owner of the adjacent land, and such judge is hereby empowered and directed to issue his order to three disinterested housekeepers, to view the said fence or repairs, and to ascertain and adjudge the amount to be paid by the party owning the adjacent lands, and the said three housekeepers shall be sworn well and truly to examine such fence or repairs, and true report to make, without favor or affection, and where they shall judge it right that a moiety of the charge shall be paid, they shall give notice thereof to the owner or possessor of the land, to be charged, if a resident of the county where such viewers reside, and

Mode of receiving reparation for constructing &c.

if not, by an advertisement for two weeks in some paper printed in the Territory, and if after such notice, the parties to be charged or any of them, shall fail or refuse to pay the amount adjudged, upon proof thereof before any justice of the peace of the county, it shall be lawful for the said justice to issue his warrant against such party, for the amount so adjudged.

When the partition fence has been constructed by one party.

Sec. 3. *And be it further enacted,* That where a partition fence shall have been constructed at the expense of one party to the division, the party so constructing the same shall have his recourse for the sum to be paid by the neighboring party, in the manner hereinbefore provided for ascertaining and adjudging the value of such constructions and repairs.

Passed 30th December, 1826.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Rejected, January 4th, 1826.

WM. P. DUVAL,

Governor of the Territory of Florida.

January 5th, 1827, Reconsidered and passed by the requisite majority.

AN ACT

To authorise the sale of certain property for the benefit of the heirs of John Tanner.

Trustees appointed to give bond and security.

Be it enacted by the Governor and Legislative Council of the Territory of Florida. That Elizabeth Tanner, William S. Pope, and John M. Pope be, and they are hereby appointed trustees, with the trusts, powers and duties hereinafter prescribed, and before they shall enter on the discharge of any part of the same, the said trustees shall severally give bond with two or more good and sufficient securities, to be approved of by the

County Court of Gadsden County, to the judge of said court, and his successors in office, in the sum of fifteen thousand dollars, to faithfully discharge the trusts and duties aforesaid.

Sec. 2. *Be it further enacted*, That the said trustees shall have power to adopt a plan of division, and to lay off the same upon the lot of land known by the description of the North West quarter of section number thirty three, township four, and range six, North and West, and the said commissioners are hereby authorised to sell and dispose of such of the lots so laid off, as to them may seem fit and expedient, for the benefit of the heirs of John Tanner deceased, and to make such sale and disposal upon such terms and at such times as to them may seem fit: *Provided*, that no sale of any of the said lots shall be made, unless the same shall be done at public auction to the highest bidder, and after previous public notice of at least thirty days in one or more of the newspapers published in this Territory.

Power of the trustees
Lots shall be sold at public auction.

Sec. 3. *Be it further enacted*, That the said trustees shall, at any time, when thereunto required by the county court aforesaid, render to the said court a true account of all their proceedings, and of the monies and specialities arising from the said sale, it shall be the duty of the commissioners to pay the same over to the order of the said court, to be dealt with by the said court in such manner as it shall deem most beneficial to the heirs of the said John Tanner.

Trustees when required shall render an account to the court.

Sec. 4. *Be it further enacted*, That the said Trustees shall not be discharged from the allegation of the bonds hereintofore prescribed by them to be given, until after the heirs of the said Tanner come of lawful age, and due investigation of the proceedings of the said trustees, the said court shall decide to order such discharge, and from the monies and specialities arising from the said authorised sale, the said trustees are hereby au-

When the trustees shall be discharged from the allegation of the bonds.

Compensation
to the trustees

thorised to retain as full compensation, to be divided amongst them, five per centum of the amount of all monies and specialities by them paid over to the court, together with the amount of such necessary and unavoidable expenses attending the said division and sale as the said trustees shall have incurred.

When the heirs
may have power
to set aside
any fraudulent
contract.

Sec. 5. *And be it further enacted*, That the said heirs shall have full power, within three years after they become of age, to investigate the sale of any property made under the provisions of this act, and to set aside and render null and void, or recover the amount in damages, of any contract or contracts entered into by virtue of the powers here vested, which may appear to be fraudulent. And the said trustees shall not purchase any of the property herein mentioned.

Passed January 20th 1827.

H. D. STONE,

President of the Legislative Council

GEORGE E. TINGLE, *Clerk*.

Approved January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

Respecting Depositions.

Be it enacted by the Governor and Legislative Council of the territory of Florida, That from and after the first day of March next, in all suits at Common Law, and in Chancery, one justice of the peace or notary public, shall have full power and authority to take any deposition or depositions, to be read as evidence in any suit or suits within this Territory.

Justice of the peace or notary public, authorised to take depositions.

Sec. 2. *Be it further enacted,* That a dedimus potestatem, issuing from the court authorising the taking of such deposition, shall not be necessary ; but all justices of the peace of this Territory are hereby invested with full power and authority to take such deposition or depositions.

Dedimus potestatem, not necessary.

Sec. 3. *Be it further enacted,* That whenever any civil cause may be depending in any court of this Territory, the court before whom the same may be depending, may, upon affidavit being made of the materiality of any witness, out of this Territory, grant a commission for taking the deposition of such witness, which commission may be directed to the Mayor of any city, notary public, justice of the peace, or any two persons authorised to administer an oath out of court, or to two or more persons by name, who may be agreed upon by the parties litigant.

Material witness out of the Territory, court to grant a commission to take depositions.

Sec. 4. *Be it further enacted,* That whenever a party to a cause shall, in vacation, file with the clerk of the court where the cause is depending, an affidavit of the materiality of a witness out of this Territory, the clerk shall issue a commission, directed as above mentioned, for taking the deposition of such witness.

In vacation the clerk of the court shall issue commissions:

No notice to the opposite party necessary for procuring commissions,

Sec. 5. *Be it further enacted*, That no notice to the opposite party shall be necessary for procuring a commission in either of the cases aforesaid, but such deposition shall not be read on the trial of such cause, unless the opposite party have reasonable notice, of the time and place of taking such deposition.

Attestation or certificate, evidence of the qualification of persons taking depositions.

Sec. 6. *Be it further enacted*, That the certificate or attestation of the person or persons taking such depositions, purporting that he or they is, or are of the description aforesaid, shall be evidence of the qualifications of such person or persons to take such depositions.

Testimony of a person living at a greater distance than 50 miles &c. bound on a voyage to sea, ancient or infirm, how taken.

Sec. 7. *Be it further enacted*, That when the testimony of any person shall be necessary in any civil cause, depending in any court of this Territory, who shall live at a greater distance from the place of trial than fifty miles, or is bound on a voyage to sea, or is about to go out of the Territory, and remain until after the trial of such cause, or is ancient or very infirm, the deposition of such person may be taken *de bene esse*, before any judge, justice of the peace, notary public, or mayor of a city, by giving the opposite party reasonable notice, of the time and place of taking the same.

When a claim or defence depends on a single witness - the court in term time, or clerk in vacation may award a commission to take the deposition *de bene esse*.

Sec. 8. *Be it further enacted*, That if any party in any suit at common law, or in chancery, shall make oath that he or she verily believes, his or her claim or defence, (as the case may be) or a material part thereof, depends on a single witness, the court, if in term time, or the clerk in vacation, may award a commission, to take the deposition of such witness *de bene esse*, although he or she be not about to depart the Country, nor under any disability; the party in such case giving reasonable notice, of the time and place of taking such deposition, to the adverse party.

Sec. 9. *Be it further enacted*, That if any will shall be produced to any court, having jurisdiction in the case of such will, for probate, and any witness or witnesses

attesting the same shall reside out of this Territory, it shall be lawful for such court to issue a commission, or commissions, annexed to such will, and directed to any notary public, judge of a court of law, mayor or justice of the peace, or to such other person or persons, as by the laws of the country where such witness or witnesses may be found, are duly authorised to administer an oath, empowering him or them to take and certify the attestation of said witness. If the person to whom such commission shall be directed, shall duly certify that the witness or witnesses personally appeared, and made oath or affirmation, as the case may be, that the testator signed and published the writing annexed to such commission, as his last will and testament, and that he or they subscribed their names thereto in his presence, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence the commission issued.

Witnesses attesting a will produced to the court for probate, living out of the Territory, certificate of attestation how taken;

Sec. 10. *Be it further enacted*, That when any commission shall be obtained, to take the deposition of a witness in a suit depending in any of the courts of this Territory, where the plaintiff or defendant in such suit doth not reside within the Territory, or hath not an attorney within the same, to whom notice of the time and place of taking such deposition can be given, then the person obtaining such commission, having published in some newspaper printed in this Territory, or in an adjoining State, four weeks successively, the time and place, when and where the witness is to be examined, and the name of the witness, together with the names of the parties to the suit, in which such witness is to be examined, it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition, authorised by the commission issuing from the court, agreeable to law, where the suit depends as a-

Commission to take the deposition of a witness, where the plaintiff or defendant doth not reside within the territory or hath not an attorney within the same, notice to be given in some newspaper printed in this Territory or an adjoining state.

foresaid ; and such deposition when taken, shall be allowed to be read as evidence, in the same manner and under the like restrictions, as if notice had been personally served upon the opposite party.

Notice to take depositions & a failure to take the same, party notified, and attending, to be allowed compensation.

Proviso, where the failure arises from the non attendance of witnesses.

Acts inconsistent with the provisions of this act repealed.

Sec. 11. *Be it further enacted*, That if any person or persons shall give a notice to take a deposition or depositions, and shall fail to take or cause the same to be taken, the party notified, if attending agreeably to the notice, shall be entitled to receive four cents for every mile that he shall necessarily travel, in going to and returning from the place assigned to take the deposition or depositions, to be allowed by the court where the suit is depending ; and for which execution may issue according to law : *Provided*, that the provisions in this section shall not be extended to any case, where the failure to take the deposition or depositions arises from the non-attendance of the witness or witnesses, or any unavoidable cause, and the oath of the party shall be admissable, to enable such party to obtain the benefit of this proviso.

Sec. 12. *And be it further enacted*, That all acts or parts of acts, regulating the taking of depositions as are inconsistent with the provisions of this act, be, and the same are hereby repealed.

Passed December 30th 1826.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk.*

Approved January 3rd 1827.

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

Regulating slaves and prescribing their punishment in certain cases.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That if any negroes or other slaves shall at any time hereafter conspire to rebel or make insurrection, every such conspiracy shall be adjudged and deemed felony, and the slave or slaves duly convicted thereof, suffer death.

Punishment for
conspiring to
rebel.

Sec. 2. *Be it further enacted,* That where any slave or slaves shall hereafter be convicted of administering to any person or persons, any poison or medicine, with the evil intent that death shall thereupon ensue, such slave or slaves being thereof duly convicted, shall suffer death.

Administering
poison &c

Sec. 3. *Be it further enacted,* That any slave or slaves free negro or mulatto, hereafter duly convicted of voluntary manslaughter, shall suffer death.

Manslaughter.

Sec. 4. *Be it further enacted,* That if any slave or slaves hereafter duly convicted of an attempt to commit a rape, on the body of any white woman, or of any woman child under the age of ten years, such slave or slaves so convicted, shall suffer death.

Attempt to
commit a rape.

Sec. 5. *Be it further enacted,* That if any negro or other slave shall hereafter consult or advise the murder of any person or persons whatever, every such consulting or advising shall be punished, by any number of stripes not exceeding one hundred, in the discretion of a jury.

Consulting or
advising the
murder of any
person.

Sec. 6. *Be it further enacted,* That if any slave shall wilfully and maliciously shoot at any free white person with a gun, or other instrument, with intent to kill such person, or if any slave shall wilfully and maliciously wound any free white person, with intent to kill any other person, the slave so offending, his or her aider and

Shooting at a
ny free white
person, or
wounding with
intent to kill.

abettor, being a slave, shall be deemed guilty of felony, and shall therefor suffer death.

Arson, robbery
from the per-
son, or burgla-
ry.

Sec. 7. *Be it further enacted*, That any negro or other slave, duly convicted of the crimes of arson, robbery from the person, or burglary, shall suffer death.

Any other
crime or misdē-
meanor.

Sec. 8. *Be it further enacted*, That if any negro or other slave shall commit any other crimes or misdemeanors, against the laws of this Territory, it shall be lawful for the jury convicting him of the same, to punish him by such number of stripes as they may award, not exceeding one hundred.

Court shall as-
sign counsel to
defend slave,
to be paid by
the owner,
master &c.

Sec. 9. *Be it further enacted*, That it shall be the duty of the courts of this Territory, charged with the trial of slaves, to assign and appoint counsel to defend any slave tried before them, for a charge of felony, in all cases where the master of any slave, his agent or guardian, fails or refuses to employ an attorney to defend such slave. And all such attorneys shall receive for their services, from the master, owner or guardian to the owner of such slave, any sum that the court shall deem reasonable, not exceeding fifty dollars, which shall be recoverable as other debts of like magnitude.

Negroes and
mulattos, when
witnesses

Sec. 10. *Be it further enacted*, That any free negro or mulatto, bond or free, shall be a good witness in pleas of the Territory, for or against negroes or mulattoes bond or free, or in civil cases where free negroes or mulattoes shall alone be parties, and in no other cases whatever.

Charge of the
court or justice
on examining a
slave as witness

Sec. 11. *Be it further enacted*, That whenever it shall be found necessary to examine any slave as a witness on any trial, it shall be the duty of the court or justice sitting on such trial, before such witness shall be examined, to charge him to declare the truth in the manner following: "You are brought here as a witness, and by the direction of the law I am to tell you, before you give your evidence, that you must tell the truth, and nothing but the truth, and if it be found hereafter that

you tell a lie, and give false testimony in this matter, you will for so doing receive thirty nine lashes upon your bare back.

Sec. 12. *Be it further enacted*, That if any negro or mulatto, bond or free, shall at any time use abusive and provoking language to, or lift his or her hand in opposition to any person, not being a negro or mulatto, he or she so offending, if duly convicted thereof before a mayor or justice of the peace of this Territory, shall receive not exceeding thirty nine lashes.

Using provoking or abusive language

Sec. 13. *Be it further enacted*, That if any owner or keeper of any ferry or toll bridge in this Territory, shall allow any slave to cross such ferry or bridge without a pass or permission in writing from the master, employer, or overseer of such slave, he or she shall forfeit and pay to the party aggrieved, the sum of twenty-five dollars, recoverable before any justice of the peace of the county where the offence shall have been committed.

Penalty for permitting a slave, without a pass, to cross any ferry or toll bridge

Sec. 14. *Be it further enacted*, That it shall not be lawful for any slave to possess in his or her own right, any horse, mare, gelding, mule, or any other cattle or sheep whatever, and if any slave shall be so possessed of such property, the same shall be forfeited, and may be sold by order of any justice of the peace, and the proceeds paid into the county treasury.

Slave possessing any horse, mare, cattle &c.

Sec. 15. *Be it further enacted*, That no cruel or unusual punishment shall be inflicted on any slave in this Territory, and any master or other person entitled to the service of any slave, who shall inflict such punishment, or shall authorise or permit the same to be inflicted, shall on conviction thereof before any court having cognizance of the offence, be fined at the discretion of the jury, not exceeding five hundred dollars.

Penalty for inflicting cruel or unusual punishment on slaves.

Sec. 16. *Be it further enacted*, That in the trial of any slaves in the Superior Court, the same rules and

Trial of slaves in the superior court

regulations shall be observed as are now allowed in case of the trial of free persons.

Offences committed by slaves not punishable by death, to be tried by two justices.

Sec. 17. *Be it further enacted*, that all offences committed by slaves, and not punishable by death, shall be cognizable and tried by any two justices of the peace of the vicinity where the offence shall have been committed, and the said justices of the peace are hereby authorised and required to summon a jury for the trial of such offences, in the same manner as is prescribed by law for the trial of offences of a similar nature before a court of record.

Acts repealed

Sec. 18. *Be it further enacted*, That all acts and parts, repugnant to or coming within the provisions of this act, be, and the same are hereby repealed.

Passed January 20th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

For the relief of Fire Companies No. one and two in the City of Pensacola.

Exempt from militia duty
Provided

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the persons composing the fire companies number one and two, in the City of Pensacola, be, and they are hereby exempted from

All militia musters and drills in time of peace : *Provid-* Not to extend
ed however, that the said exemption shall not extend to to commission-
 such persons as shall be appointed commissioned offi- ed officers or to
 cers of the militia, and provided also that the provisions more than fifty
 of this act shall not extend to exempt more than forty persons &c.
 persons in each company.

Passed January 17th, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Rejected, January 20th, 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

January 21st, 1827, Reconsidered and passed by the
 requisite majority.

AN ACT

To determine the compensation of the officers of the Legislative
 Council, and for other purposes.

*Be it enacted by the Governor and Legislative Council
 of the Territory of Florida,* That the following sums be
 allowed to the clerks and other officers of the Legisla-
 tive Council, as a compensation for their services, viz :

To George E. Tingle, chief clerk, three hundred
 dollars.

To A. S. Thruston, for printing done for the Council,
 eleven hundred twenty-three dollars and forty-one
 cents.

To James Hughes, Enrolling and Engrossing clerk,
 two hundred fifty three dollars, and twenty-five cents.

To C Snell, Enrolling and Engrossing clerk, one
 hundred sixty two dollars and sixty eight cents.

T

To Paul McCormick, Engrossing and Enrolling clerk, one hundred thirty five dollars and twenty-five cents.

To Daniel B. Douglas, Engrossing and Enrolling clerk, fifteen dollars and thirty five cents.

To Daniel C. Hart, Sergeant at Arms, one hundred and fifty dollars.

To A. W. Crews, door keeper, one hundred and fifty dollars.

To Hector W. Braden, for one dozen chairs, and four pair of shovel and tongs, eighty five dollars.

To George E. Tingle, for making three copies of the laws passed at the session of 1825, two hundred dollars.

To John W. Levinus, for making President's seat, railing for the Legislative room, and seats for the lobby, forty-two dollars.

Sec. 2. Be it further enacted, That the Governor of this Territory be, and he is hereby authorised, to cause to be audited, the accounts for stationary and other contingent expenses incurred for the use of the Legislative Council.

Passed January 21st 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 26th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Regulating the trial of the right of Property,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That whenever the ministerial officer of any court, sheriff or other officer, by virtue of any execution, decree or order of court, levy upon any property, real or personal, and any person other than the defendant in the execution set up a claim to the same. it shall be the duty of the said ministerial officer, sheriff or other officer, to summon a jury possessing the same qualifications, and liable to the same exceptions as jurors in the superior court, who shall proceed to try and determine the right of property

Property levied upon, claimed by another party.

Sec. 2. Be it further enacted, That it shall be the duty of the officer summoning the jury, to try the property as aforesaid, to give to both the parties notice of the time and place of such trial, and also to procure some justice of the peace to swear the said jury, and preside during such trial, who shall receive therefor one dollar, to be taxed and collected in the bill of costs.

Both parties to have notice of trial.

Sec. 3. Be it further enacted, That if the jury shall decide against the right of the party claiming the said property, he may take an appeal from such verdict to the Superior or County court at his election, by entering into bond with such security as shall be approved of by the officer who seized the said property, conditioned to pay the value of the property and all costs and damages, if the verdict of the jury should be affirmed, and upon receiving such bond it shall be the duty of the officer seizing such property, to stay all proceeding thereon, and deliver the property to the person claiming the same.

May take an appeal.

Sec. 4. Be it further enacted, That it shall be the duty of the ministerial officer, sheriff or other officer, to return the said bond and the finding of the said jury

Duty of the Sheriff &c.

together, with a copy of the execution and the property levied upon, to the clerk of the court where the appeal may be taken, and it shall be his duty to docket the same for trial on the second day of the next succeeding term, when the same shall be tried and determined, unless the court for good cause continue the same.

Party claiming
the property
succeeding.

Sec. 5. Be it further enacted, That if upon the trial of the appeal, the party claiming the property shall succeed in establishing his right to the same, he shall recover all legal costs of the plaintiff in the suit for whose benefit the property was taken, and have execution for the same.

Person claim-
ing property,
failing to estab-
lish his right.

Sec. 6. Be it further enacted, That if the person or persons claiming the said property shall fail to establish his, her or their right to the same, and it shall be decided to be liable to the said execution, the court shall order execution immediately to issue for the value of such property, as stated in the appeal bond, together with costs and five per cent. damages, which may be levied upon any property belonging to the person or persons taking the appeal.

Where the ju-
ry cannot agree
upon a verdict.

Sec. 7. And be it further enacted, That when the jury cannot agree upon a verdict, when summoned as aforesaid, it shall be the duty of the sheriff, if the plaintiff require it, to sell the said property: *Provided,* that the plaintiff execute bond with sufficient security, conditioned to pay all damages and costs which the sheriff may incur in consequence of making such sale.

Passed 16th January, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk.*

Approved January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To prevent trading with Negroes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That no person shall buy or sell or receive of, to, or from a slave, spirituous liquors or any commodity whatsoever, without the leave or consent of the master, owner or overseer of such slave, and if any person shall presume to deal with any slave without such leave or consent, he or she so offending shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold or received, to be recovered with costs by action upon the case, in any court of record in this territory, and shall also forfeit and pay the further sum of fifty dollars, to any person who will sue for the same, to be recovered with costs, by warrant before a justice of the peace, in the same manner as other debts, not exceeding fifty dollars, or receive on his or her bare back twenty lashes, well laid on at the public whipping post, but shall nevertheless be liable to pay the costs of such warrant.

Trading with a slave without the consent of the master &c.

Sec. 2 Be it further enacted, That any person who shall on the Sabbath day, buy, sell or receive of, to, or from a slave, any commodity whatsoever, without the leave or consent of the master or overseer of such slave given in writing, or shall buy, sell, or receive of, to, or from any slave on the day aforesaid, shall in addition to the penalties aforesaid, forfeit and pay the sum of ten dollars, to be recovered by warrant from any magistrate of the county or corporation, by any person who will prosecute for the same.

Penalty for trading with a slave on Sunday without leave of the master.

Sec. 3. Be it further enacted, That if it shall be proved to the satisfaction of any court of law, or justice of the peace, that any person hath been guilty of any of the offences of buying selling or receiving to, or from

Duty of the cr.
or justice upon
a violation of
the law.

any slave without the consent of his or her owner or overseer, contrary to the true intent and meaning of this act, it shall be lawful for such court or justice to rule such person to give security, for his or her good behavior for one year, and on failure of such person to give the security required, he or she shall be committed to jail, there to remain till the security be given, or till he or she be otherwise discharged by due course of law.

Acts repealed: Sec. 4. *And be it further enacted,* That all acts or parts of acts inconsistent with the provisions of this act, be, and the same are hereby repealed.

Passed 10th January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved, January, 18, 1827,

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To amend the act entitled, "an act to incorporate the City of Pensacola.

Corporation
authorised to
grant licenses
to gaming houses.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Corporation of the City of Pensacola be, and they are hereby authorised, to grant licenses to keep gaming houses, to such persons, and upon such terms and conditions as may seem expedient to the said corporation, *Provided however,* that the tax imposed by said corporation shall not be less than fifty dollars.

Sec. 2. *And be it further enacted,* That if any person shall keep a house, or allow in his house any playing at

gato, or any games at cards, dice, or other thing, where money is bet, without having first obtained a license from the said corporation, the person or persons so offending, shall forfeit and pay fifty dollars for each and every offence, to be recovered before the Mayor or any Magistrate in said county ; one half to the corporation and the other to the person suing for the same.

Penalty for violation

Passed January 6, 1827.

H. D. STONE

President of the Legislative Council.

GEO. E. TINGLE, Clerk.

Rejected, January 18th, 1827,

WM. P. DUVAL,

Governor of the territory of Florida.

January 20th Reconsidered and passed by the requisite majority.

AN ACT

To constitute a new county out of the county of Leon, and for other purposes.

Be it enacted by the Governor and Legislative Council of the territory of Florida, That there be, and hereby is established a county by the name of Jefferson, to be comprehended within the following boundary lines, viz. on the west, beginning at a point on the Gulf of Mexico, where the line between Range two and three South and East strikes the same: thence, north with said Range line to the South west corner of township one, Range three South and East; thence, in a direct line to where the Mickasuky sinks; thence up the west side or bank of the said Mickasuky to where dry creek empties into the same; thence up said creek to the Georgia line; on the north by the boundary line of the

Boundary of Jefferson county included in the seventh electoral legislative district.

State of Georgia; on the East by the western boundary line of Alachua county, and on the South by the Gulf of Mexico; and the said county shall be included in the seventh electoral Legislative District.

When & where
the courts shall
be held

Sec. 2. *Be it further enacted*, That the county court of the county of Leon shall be holden on the first Monday of February and September next, at the city of Tallahassee, and in each and every year thereafter, and the county court of the county of Jefferson shall be holden on the same days, in each and every year, and shall be holden at the house of John G. Robinson, until the permanent seat of justice for said county is established; said court shall hold two additional sessions in each year for probate business.

County court
shall appoint
commissioners
to select a
county seat

Sec. 3. *Be it further enacted*, that the county court for Jefferson county shall, at their first session, appoint five commissioners, to select a permanent seat of justice for said county, and the same shall be established by the said county court, and regulated according to law.

When and
where the
county court of
Washington
shall be held

Sec. 4. *And be it further enacted*, that there shall be held a court in the county of Washington on the fourth Monday of April and November; and until the county seat shall have been permanently established, said court shall hold its sessions at the house of John Bush, until otherwise provided for.

Passed 6th January 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To provide for holding terms of the Superior Courts in different

counties within this Territory, and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all that part of the territory of Florida lying west of the river Apalachicola shall be known by the name of the western district. All that part of said Territory lying east of said Apalachicola river and west of Suwanney river. shall be known by the name of the Middle District, and all that part of said Territory lying east and south of Suwanney river, shall be known by the name of the Eastern District.

Western district

Middle district

Eastern district

Sec. 2. *Be it further enacted,* That the judge for the superior court of the eastern district shall hold a court at the county seat Jacksonville in the county of Duval, on the first Monday of April and December in each year, and as the place appointed in conformity with the act of Congress.

Courts in the eastern district, when and where held

Sec. 3. *Be it further enacted,* That the judge of the superior court for the Middle District shall hold a court on the third Monday of April and October, in the county of Gadsden, at the county seat of said county and as the place appointed in conformity with the act of Congress, in each year.

When and where held in the middle district

Sec. 4. *Be it further enacted,* That the judge of the superior court for the western district, shall hold a court in the county of Jackson and as the place appointed in conformity with the act of Congress. on the first Monday of March and September at the county seat of said county, in each year.

When and where held in the western district.

Judges to ap-
point clerks of
the court

Sec. 5. Be it further enacted, That the judges of the different districts are hereby ordered and empowered to appoint clerks for the respective courts above named ; who shall reside and keep their offices at the places of holding their respective courts for which they may be appointed.

All causes to be
tried in the
county where
defendant re-
sides

Sec. 6. And be it further enacted, That all causes shall be tried in the county where the defendant may reside ; provided such defendant be a resident of the territory ; and provided there be a court in such county with jurisdiction of the case, and if there be no such court, then said cause shall be tried in the next adjoining county where a court of competent jurisdiction may be held.

Passed January 21st 1827.

H. D. STONE.

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 21st 1827.

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

Giving Nathan Shackelford and Emilie Merlet the exclusive navigation and portage of Holmes creek.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the exclusive right of navigation and portage of Holmes creek, with boats, barges, and such other craft as they may think proper and to carry freight up and down the same for hire, is hereby vested in N. Shackelford and E. Merlet, their heirs and assigns, for, and during the term of five years after the passage of this act.

Exclusive navigation of Holmes' creek, for five years

Sec. 2. Be it further enacted, That if any person shall carry, in any boat, barge or other water craft, any produce, cotton, or merchandize whatever, either up or down the said creek, during the period aforesaid, and receive any pay as freight for the same in any manner whatever, the person or persons so offending, shall pay to the said N. Shackelford and E. Merlet, their heirs or assigns double the amount of the freight so received, to be recovered before a magistrate or court having jurisdiction of the same.

Penalty for navigating said creek

Sec. 3. Be it further enacted, That if the said N. Shackelford and E. Merlet, their heirs or assigns should fail or refuse, for the space of three months, to keep a sufficient number of boats, barges or other craft, to transport produce or merchandize up or down said river, the privilege here granted shall cease and be void.

Failure for 3 months to keep a sufficient number of boats, etc

Sec. 4. Be it further enacted, That the county court of Washington at their next session shall make such rates of freight for produce, merchandize and cotton as to them may seem just: Provided, that the rates adopted by said court shall not be less than those now paid for freight on said creek, and until said court makes such regulations, the said N. Shackelford and

County courts shall regulate freights.

Proviso

E. Murlet shall have a right to ask and receive for freight of any articles, either carried up or down said creek, the same rates they are now receiving.

Passed January 17th 1827

H. D. STONE,
President of the Legislative Council

GEORGE E. TINGLE, *Clerk.*

Rejected January 20th 1827.

WM. P. DUVAL,
Governor of the Territory of Florida

January 21st 1827, reconsidered and passed by the requisite majority.

AN ACT

To amend an act entitled "an act to provide for the laying off the town of Tallahassee, and the sale of the lots therein"

Appointment of
a commissioner

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That there shall be appointed by the Governor and Legislative Council, one Commissioner, who shall hold his office for one year, and keep the same at Tallahassee, whose duty it shall be to carry into execution the several provisions of an act, entitled an act to provide for the laying off the town of Tallahassee and for the sale of the lots therein, according to the provisions of that act, who before he enter on the duties of his office, shall enter into bond and security to the Governor of the Territory, to be approved by the same, conditioned for the faithful per-

formance of his duty, and to account for all monies by him received and paid out agreeable to the provisions of this act

Sec. 2. *Be it further enacted*; That it shall be the duty of said commissioner to make a true report of his proceedings in detail, including all the amount of money received, the amount of money paid out, the amount due from the sale of the lots, together with all and singular of his transactions, within one week after the setting of the next Legislative Council.

Duty of the commissioner

Sec. 3. *Be it further enacted*, That nothing herein contained shall authorise the said commissioner to make any contract for the further erection of the Capitol.

Shall make no contract for the further erection of the capitol

Sec. 4. *Be it further enacted*, That said commissioner shall, instead of paying over the money to the Secretary as is provided for by the act alluded to in this act, that it shall be his duty to pay the same over to the Territorial Treasurer of this Territory.

Shall pay over money to the Treasurer

Sec. 5. *Be it further enacted*, That the money arising from the sale of the lots of the City of Tallahassee, paid over to the Treasurer as aforesaid, shall not be used for any other purpose than for paying the debts already due for the erection of the Capitol, and for the erection of the balance of the buildings which may be provided for by law.

Money how to be used by the treasurer

Sec. 6. *Be it further enacted*. That the said commissioner shall receive as a compensation for all his services one and a half per centum on all monies by him received, and one and a half per centum on all monies by him paid out.

Compensation to the Commissioner

Sec. 7. *Be it further enacted*, That so much of an act, entitled an act to provide for the laying off the town of

Acts repealed Tallahassee, and the sale of the lots therein, as requires that there shall be three commissioners, the third section of said act, together with all other parts of said act, inconsistent with the provisions of this act, be and the same are hereby repealed.

Passed, January 21, 1827,

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 21st 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

More effectually to define the boundary line between the Counties
of Duval and Nassau,

Defining the
boundary line
between the
counties of Du-
val and Nassau

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, the boundary line between the counties of Duval and Nassau shall be, and commence at the mouth of Nassau river, running thence up the said river to Thomas swamp, running thence up said swamp to its head waters, running thence in a direct line to the head waters of big creek, and thence down big

brook to the waters of St. Mary's river, the western boundary of Nassau county.

Passed 27th December 1826.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, *Clerk.* -

Approved December 30th 1826.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To establish the rates of Pilotage for the St. Johns river in the Territory of Florida,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the following fees and rates of pilotage be allowed to each and every pilot, piloting and conducting a vessel over the bar of the river St. Johns, to wit; for every foot of water which said vessel may draw, two dollars; for every day which said pilot may be detained on board any vessel, two dollars. Rate of pilotage

Sec. 2. Be it further enacted. That when any vessel bound to the port of the river St. Johns, shall be hailed or spoke by any pilot of the river aforesaid, and said vessel not having a pilot on board, shall refuse to take and receive said pilot, so hailing or speaking, said pilot shall be entitled to demand and receive from the own- When a vessel shall be hailed or spoken by a pilot

er, master or consignee of said vessel, the same fee and rate of pilotage, as if said pilot had been taken and received on board said vessel, and have conducted and piloted the said vessel into the port or harbour to which she was bound.

Vessel outward
bound refusing
to take on
board pilot

Sec. 3. *And be it further enacted*, That when any vessel outward bound, and about to sail from the river St. Johns, and said vessel refuse to receive and take on board a duly authorised pilot of said river, such vessel, master and owner thereof shall be liable, and is hereby made liable, to pay the pilot first tendering his service as pilot to said vessel, one half of the pilotage ; which is hereby authorised to be discharged and demanded, as if said vessel had been actually piloted and conducted from said river by said pilot.

Pilotage reco-
verable before
any court of re-
cord or justice

Sec. 4. *And be it further enacted*, that all fees and rates of pilotage which may become due, be, and the same are hereby made recoverable before any court of record or justice in this territory.

Passed January 16th, 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida

AN ACT

To constitute the office of Territorial Treasurer.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That there shall be appointed by the Governor, and with the consent of the Legislative Council aforesaid, a Territorial Treasurer, who shall continue in office one year from the time of his appointment, unless sooner removed by the Legislative Council ; he shall keep his office at the city of Tallahassee, and shall do and perform all the duties, and shall receive the fees hereinafter prescribed.

Sec. 2. *Be it further enacted,* That the said Treasurer, before he enters on the duties of his office, shall take an oath or affirmation before a judge of the county court, or a justice of the peace of any county in this Territory, faithfully to discharge the duties of his office, and he shall enter into bond with two or more good and sufficient securities, to be approved of by the Governor, in the penalty of twenty thousand dollars, and payable to the Governor of the said Territory, for the time being, and his successors in office, and conditioned as follows, viz : " The condition of the above obligation is such, that whereas the above bound A. B. was, on the day of duly appointed to the office of Treasurer of the Territory, for the term of one year from the date of the said appointment. Now, therefore, if the said A. B. shall from time to time render a just and true account to the Legislative Council of the Territory aforesaid, when by them required, of the money, securities, stocks, and other property of the said Territory, which shall come to his hands or be committed to his charge, and that he shall deliver the money, securities, stock, documents, instruments of writing, papers and books, belonging to, or for the use of the said Territory, to his

Territorial treasurer, continue in office one year from the time of appointment,

Keep his office at the city of Tallahassee

Treasurer to take an oath or affirmation, for the faithful discharge of his duties to give bond, with security, to be approved of by the Governor,

Conditions of the bond

Bond to be submitted to the Governor, and his approval of the securities endorsed thereon, Bond with certificate of the oath of office, to be deposited in office of the secretary of the

Territory,

Authentic copy
of the bond to
be received in
evidence in
court.

successors in office, and that he shall well and truly, honestly and faithfully, perform all the duties of his office during his continuance therein, and shall answer for all unlawful appropriations, wastes, embezzlements, or destructions of said monies, securities, stock, property, documents, instruments of writing, papers or books, which shall come to his hands, or be made by him, or any other person by him employed, in the said office; then this obligation to be null and void, otherwise to remain in full force and virtue." Which bond shall be submitted to the Governor, and his approval of the securities therein named, indorsed thereon; and the same, together with a certificate of the oath of office, shall be deposited in the office of the Secretary of the Territory, there to be recorded and kept: and the said bond shall not be void on the first recovery, but may be put in suit, and prosecuted from time to time, at the cost of any party injured, until the whole amount of the penalty thereof be recovered.—An authenticated copy of such bond shall be received in evidence in any court of law or equity in this Territory, in the same manner as the original would, if it were present in court.

Treasurer not
to enter upon
the duties of
his office, un-
til bond and se-
curity be giv-
en &c.

Failure to give
bond etc. with-
in ten days,
Governor to
appoint some
other person
to be approved
by the Legisla-
tive Council if
in session.

Sec. 3. Be it further enacted, That no Territorial Treasurer shall enter upon the duties of his office, until bond and security be given, approved and deposited in the office of the Secretary of the Territory as heretofore required, and if any person appointed Treasurer agreeably to this act, shall fail to give bond and security as aforesaid, for the space of ten days, the Governor shall proceed to appoint some other person to fill said vacancy, and if the Legislative Council are in session, he shall offer the same to them for their approval, and in all cases where a Territorial Treasurer shall be appointed by the Governor, in the recess of the Legislative Council, the person so appointed shall give bond and security as is heretofore required.

Sec. 4. *Be it further enacted*, That it shall be the duty of the said Territorial Treasurer to receive and keep the monies of the Territory, to disburse the same agreeably to law, and to take receipts for all monies which he shall disburse, and he shall keep regular accounts of the receipts and expenditures of public monies, he shall open an account in his book in the name of the Territory, in which account he shall enter the amount of all money, stock, securities and other property in the Treasury, and which may at any time be received by him. he shall also open an account in the book of the Treasury for all appropriations of money made by law, so that such appropriations, and the consequent applications thereof, may clearly and distinctly appear in the books of the Treasury.

Duties of the Treasurer.

Sec. 5. *Be it further enacted*, That it shall be the duty of the Treasurer aforesaid, to keep at his office a book, in which shall be entered the name of every person to whom any money may be paid, and for what purpose, and under what law the same was disbursed, and also to keep on file in his said office, vouchers of the payment of the same, and it shall be his duty to examine, state, settle and audit, all accounts, claims or demands whatsoever, arising under any law, act or resolution of the Legislative Council, and to examine and settle the accounts of all public debtors, and collectors of any taxes or revenue of the Territory.

duty of the treasurer to keep vouchers of the payment of money,

Audit and settle accounts.

Sec. 6. *Be it further enacted*, That it shall be the duty of the Treasurer aforesaid, annually, during the first six days of the session of the Legislative Council, to lay before that body a detailed statement of all the accounts, claims or demands which he may have received, audited, settled and allowed, and the law or resolution of the Legislative Council which authorized the same; and it shall also be his duty within the time aforesaid, to lay before the said council, an account of all the monies he may have received, and of

Treasurer to lay before the Council during the first six days of the session, a statement of his accounts,

Council shall
appoint a com-
mittee to ex-
amine the state
of the Treasu-
rer's office

the amount expended during the year, and such other facts as may be necessary to afford the Council full information of the state of the treasury ; and it shall be the duty of the Council to appoint a committee to examine the state of the treasurer's office, and to make report of the same.

disbursements
how made,

Sec. 7. *Be it further enacted*, That all disbursements of the treasury shall express by reference to some general head of expenditure, the cause for which they are made, and all certificates or receipts of the treasurer, shall express upon the face thereof, the particular head of general revenue, on account of which the same is due, and when the same is due for the revenue of the past year.

Sheriff or col-
lector of any
tax or revenue
failing to pay
over any tax
etc. motion to
be instituted by
the treasurer
Before motion
sheriff or col-
lector and se-
curities to have
a written no-
tice of twenty
days.

Sec. 8. *Be it further enacted*, That when any sheriff or collector of any tax or revenue, shall fail or refuse to pay over the same according to law, and within the time required of him by the same, it shall be the duty of the treasurer, or any person appointed by law, and he and they are hereby authorised to institute motion against such sheriff or collector, and his securities, or either of them, in the name of the Governor of the territory, for the time being, in any court having jurisdiction of the same, for the recovery of the amount due and unpaid by said sheriff or collector, giving to the said sheriff or collector, and his securities, a written notice of twenty days previous to moving for said judgment.

Treasurer not
to pay to any
debtor to the
territory.

Sec. 9. *Be it further enacted*, That the treasurer aforesaid shall not pay to any person who may be a debtor to the territory, but shall allow such debtor a credit on his account, for such allowances or claims.

Treasurer mis-
applying or
embezzling
money, stock
etc. Governor
to institute a
motion against

Sec. 10. *Be it further enacted*, That if the treasurer aforesaid shall misapply, waste, or embezzle any money, stock, security or other property in the treasury, it shall be the duty of the Governor for the time being to cause to be instituted a motion against such defaulting treasurer and his securities, or either of them, for

the amount of money, stock, securities, or other property so misapplied, wasted, or embezzled, in the name of the Governor of the territory for the time being, in any court having jurisdiction of the same, wherein the seat of government is situated, ten days previous notice of such motion being first given to such treasurer and his securities; and if on any such trial the treasurer shall be convicted, he and his securities shall be adjudged to pay double damages, and moreover, such treasurer shall thereby be rendered incapable of holding any office of honor or profit within this territory.

Sec. 11. *Be it further enacted*, That the Governor of this Territory shall have the superintendence of the office of the treasurer aforesaid, during the recess of the Legislative Council, and shall take care that the said treasurer shall perform the duties required of him by law, without partiality or delay; and if it shall at any time satisfactorily appear that any money, stock, security, or other property of the territory, in or belonging to the treasury, shall have been misapplied, wasted or embezzled, the Governor shall authorise some proper person to proceed, according to the provisions of this act, against such defaulter; and it shall be the duty of the treasurer aforesaid, to furnish the Governor from time to time, when thereunto required, with a statement of the public finances, and of the proceedings in his office.

Sec. 12. *Be it further enacted*, That it shall be the duty of the treasurer aforesaid, to prescribe all official forms of papers, necessary to be used in collecting the public revenue, and also the manner and form of keeping the accounts of the persons employed therein; And the books and accounts of the treasurer aforesaid, and of all other persons employed in the collecting and safe keeping of the public money or funds of this terri-

him and his securities,

Before motion ten days notice to be given to treasurer and securities,

Punishment upon conviction.

Governor to have the superintendence of the treasurer's office, Waste or embezzlement of the public money—Governor to proceed against the defaulter—treasurer when required, to furnish the Governor with a statement of the finances,

Treasurer to prescribe official forms of papers used in collecting the revenue,

Books of the treasurer, etc

tory, shall at all times be open and subject to the examination and inspection of the Governor

Treasurer to procure a seal of office—in-
scription there-
on—provide
books and sta-
tionary and lay
a statement of
the same be-
fore the coun-
cil annually,

Sec. 13 *Be it further enacted*, That it shall be the duty of the treasurer aforesaid, to procure a seal of office, with the following inscription thereon, viz : "Treasury Office Florida," and he shall also provide the necessary books and other stationery for his office, at the expense of the territory, and shall lay a correct statement of the same before the Legislative Council, annually.

Compensation
to the treasur-
er,

Sec. 14. *Be it further enacted*, That the treasurer aforesaid, shall receive as a full compensation for all his services, as follows, viz. two and a half per cent. on all monies by him received, and two and a half per cent. on all monies by him paid out.

Money, stock,
etc, in the
hands of any
treasurer, a
gent, or other
person, to be
delivered into
the hands of
the treasurer,

Sec. 15. *And be it further enacted*, That any money, stock, securities, or other property, belonging to the territory, in the hands of any treasurer, agent, or other person, shall be delivered into the hands of the treasurer, or such person as may be appointed under the provisions of this act, and he and they are hereby authorised to take into his or their possession, such money, stock, securities, or other property; and that any act or parts of an act, repugnant to the provisions of this act be, and the same are hereby repealed.

Acts repealed.

Passed December 21, 1826.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved December 23d. 1826.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To lay off the several counties into Magistrates Districts.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the several County Courts in this territory, shall at the next term of their respective courts, lay off their respective counties into districts not exceeding seven, and there shall reside in each district, at least one justice of the peace and one constable.

County courts shall lay off the counties into districts.

Sec. 2. *Be it further enacted,* That if any judge or justice of the peace constituting the several county courts within this territory, shall refuse or neglect to lay off the several counties into magistrates districts, and alter the same according to the provisions of this act, it shall be the duty of any grand juror within this territory, having jurisdiction of the same, to indict every such judge or justice, and if found guilty of such refusal or neglect by any court having jurisdiction of the same, every such judge or justice shall pay at the discretion of the court, a fine not exceeding fifty dollars, to go to the county treasury of such county complaining, for their county purposes.

Judge or justices neglecting to lay off the counties into districts.

Sec. 3. *Be it further enacted,* That no alteration shall be made in the said district after they are once laid off, unless on application of at least ten citizens residing within the limits of such district, that is prayed to be altered, which persons shall set up a written notice in three of the most public places, within the districts to be altered, particularly naming the line such alteration will produce.

When an alteration may be made in the districts.

Sec. 4. *Be it further enacted,* That it shall be the duty of the clerks of the county courts in each and every county in this territory, to spread upon the records of their respective courts immediately, the boundary lines of every district so laid off by the aforesaid coun-

Duty of the clerks to record the boundary etc.

ty courts, as well as all alterations that may thereafter take place, and post the same at the door of their respective court houses, within five days after such division or alteration is made.

Overseers of
roads.

Sec. 5. *Be it further enacted*, That the duties of the overseers of roads shall in like manner be distributed in the aforesaid counties, and assigned to the limits of the aforesaid districts, and the jurisdiction of such overseers shall not extend beyond such limits, except in cases where a new road is to be opened.

Warrants in ci-
vil suits, where
returned.

Sec. 6. *Be it further enacted*, That no warrant in any civil suit shall be returned in any other district than that in which the defendant resides, unless the defendant shall desire otherwise in writing : and whenever a warrant is against two or more defendants, residing in different districts, the same may be returnable in either of said districts : *Provided*, that when a defendant resides out of the county in which the warrant is served on him, it shall be the duty of the constable serving the warrant to return the same before a justice of the peace within the district in which the warrant shall be served.

When any
county shall
not be organ-
ized and laid
off into districts

Sec. 7. *Be it further enacted*, That if any county in this Territory shall not be organized, and the same laid off into districts, and a sufficient number of justices of the peace and constables agreeable to the provisions of this act, it shall be lawful for any justice of the peace of the adjoining county to issue any warrant at the request of any person applying for the same, against the residents of said county, and he shall have full power to try and decide the same, in the same manner, as if the parties lived within his district. and the constable shall have full power and authority to serve all such process issued as aforesaid, and levy any execution issued upon such judgment.

Sec. 8. *And be it further enacted*, That it shall be lawful for the constable where the justice of the peace

in his district is interested in the case, or related to either of the parties, or refuse for other cause to act therein, to return the warrant and all other process in any such case, before some other justice in said district, or in an adjoining district convenient to the defendant, and the justice shall take recognizance thereof, and proceed thereon as in other cases to the same amount.

Where the justice is interested etc.

Passed, January 13th, 1827,

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Approved January 19th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend, and in addition to the several acts concerning executions now in force.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, all lands east of the Suwannee river, which shall be levied upon in virtue of civil process, and the claims to which as against the United States, shall have been legally filed, and are pending and undetermined, be, and the same are hereby exempted from sale, except upon the terms, and in the manner hereinafter provided for; that is to say, it shall be the duty of the Marshal, sheriff, or other officer executing the said process, to summon, at least five days before the sale thereof, three disinterested and impartial freeholders or householders, who shall be sworn by some justice of the peace, to value and ap-

Lands east of the Suwannee river, when exempt from sale under a civil process.

praise the same, and if on the day of the sale thereof such property bring not at least two thirds of its valuation and appraisement made as before provided for, it shall be the duty of such officer to postpone the sale of the same, for the period of four months.

When sale may
be postponed.

Sec. 2. *Be it further enacted*, That at the expiration of the said period of four months, if at the said postponed sale the lands in execution aforesaid shall not bring at least one half of the valuation and appraisement, made as aforesaid, then it shall be the duty of such officer to postpone the sale of the same to some future day but lands thus situated shall not be sold by said officer at any time, for less than one half of its appraised value.

Where execution
has been
levied previous
to the passage
of this act.

Sec. 3. *Be it further enacted*, That where any execution, issuing from a judgment of any court of this territory, has been levied previously to the passage of this act, on any real property, the claims to which are against the United States, are pending as aforesaid, and sale of such property shall not have been made and perfected by the officer, it shall be his duty to cause the said property, before the same be exposed to sale, to be valued and appraised before the sale, and such proceedings to be had therein, as are provided for by this act.

Where real estate
shall be re-
vied upon,

Sec. 4. *Be it further enacted*, That in all cases within the jurisdiction of the courts of East Florida, wherein any real estate shall be levied upon by virtue of civil process, it shall be the duty of the marshal, sheriff, or other officer executing such process, to proceed in the execution of the same by valuation and appraisement, and agreeably to the proceedings prescribed by this act.

Sec. 5. *Be it further enacted*, That when the execution has been returned to the clerk's office the second time, without having effected the sale of said

land for two thirds of its value as ascertained as aforesaid, it shall be lawful for the clerk at the instance of the plaintiff, his attorney or agent, in one month thereafter, to issue another execution against the said land, and the officer receiving the execution, shall have full power to sell the land for one half the appraised value of the same, as ascertained by the valuation aforesaid made.

Sale not effected for two thirds of valuation,

Sec. 5. *Be it further enacted,* That all buildings and other improvements, which now are, or may hereafter be made upon the public land east of the Suwannee river, within this Territory, be, and they are hereby exempted from sale under execution issuing from any court of this Territory.

Improvements on public lands exempted from sale,

Passed January 13th 1827.

H. D. STONE,

President of the Legislative Council.

GEORGE E. TINGLE, Clerk.

Rejected January 20th 1827.

WM. P. DUVAL,

Governor of the Territory of Florida.

January 20th 1827, reconsidered and passed by the requisite majority.

The Index which follows was
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